

AGE OF CONSENT COMMITTEE

EVIDENCE

1928-1929

Volume IV

**Oral Evidence and Written Statements
of
Witnesses from the Madras Presidency**



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Secretary.

Mr. M. D. Sagane, M.A., LL.B.

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The following persons were invited to give oral evidence but did not appear:—

MADRAS.

1. Mr. S. Varadachariar, Advocate, Madras.
2. Khan Bahadur M. Abdulla Ghattala, Advocate, Vellore.
3. Shrimathi Sroerangammal, Triplicane, Madras.
4. M. R. Ry. M. Subramania Ayyar A.V.L., B.A., M.B., C.M., Hony. Physician, Government Hospital for Women and Children, Madras.
5. Lady Sadasivier, 'Moysalaya', Madras.
6. Mrs. Lakhshmi Ammal, Lakhshmi Villas, Madras.
7. Rao Bahadur T. V. Ranga Achariar, B.A., B.L., Chittoor.
8. Mr. S. Srinivasa Iyengar, M.L.A., Madras.
9. Mrs. Gauri Shankuni, M.A., L.T., Cannanore.
10. Mr. Duraiswami Iyengar, M.L.A., Chittoor.
11. Mr. T. Prakasam, M.L.A., Madras.
12. Mr. M. A. Mathiam Chetty, B.A., Vepprey, Madras.
13. Brahma Sri Appalabolu Rangiah Garo, Probit, Madanpalli.
14. Maharaja of Pithapuram.
15. Raja of Panagal, K.C.L.E., Gopal Bagh, Madras.
16. Diwan Bahadur M. Gopalaswamy Mudaliar, B.A., B.L., High Court Vakil and President, District Board, Bellary.
17. Mr. M. Seshachalapathi, Secretary, Standing Committee of the Indian National Social Conference, Madras.
18. Mrs. Mir Muzheraddin, President, Muslim Women's Association, Madras.

THE AGE OF CONSENT COMMITTEE.

QUESTIONNAIRE.

NOTE.—*The queries below may be answered wholly or in part according to the sphere of experience of each person answering. Persons willing to answer should send their written replies so as to reach the Secretary, Age of Consent Committee, Simla, by the 15th August at the latest.*

1. Is there any dissatisfaction with the state of the law as to the Age of Consent as contained in Sections 375 and 376 of the Indian Penal Code ?

2. What are the circumstances which in your opinion justify—

- (1) retaining the law of the Age of Consent as it is, or
- (2) making an advance on the present law.

3. Are crimes of seduction or rape frequent in your part of the country ? Has the amendment of the law made in 1925 raising the age of consent to 14 years succeeded in preventing or reducing cases of rape outside the marital state, or the improper seduction of girls for immoral purposes ? If not, what measures would you propose to make the law effective ?

4. Has the amendment of 1925 raising the age of consent within the marital state to 13 years been effective in protecting married girls against cohabitation with husbands within the prescribed age limit—

- (1) by postponing the consummation of marriage,
- (2) by stimulating public opinion in that direction, or
- (3) by putting off marriage beyond 13.

If not, what steps would you propose to make it effective ?

5. What is the usual age at which girls attain puberty in your part of the country ? Does this differ in different castes, communities or classes of society ?

6. Is cohabitation common in your part of the country among any class or classes of people—

- (1) before puberty
- (2) soon after puberty
- (3) before the girl completes 13 years.

Do any of these cases come to court ?

7. Do you attribute the practice of the early consummation of marriage before or at puberty, wherever it exists, to religious injunction ? If so, what is the authority for and nature of that injunction, and does that authority prescribe any, and what penalty for its breach ?

8. Is 'Gaona' or 'Garbhadan' ceremony usually performed in your part of the country ? If so, does it coincide with or is it anterior to the consummation of marriage. Is it performed generally after the attainment of puberty and how soon after it ?

9. Do you consider that the attainment of puberty is a sufficient indication of physical maturity to justify consummation of marriage? If not, at what age and how long after puberty may a girl's physical development be considered to be enough to justify such consummation without injury to her own health and that of her progeny?

10. At what age would a girl in India be competent to give an intelligent consent to cohabitation with a due realization of consequences?

11. During your experience, professional or otherwise, have you come across cases in which cohabitation before puberty, or after puberty but before full physical development of a girl resulted in injury to her health or body or prejudicially affected her progeny? If any, give details of age and injury sustained.

12. Do you consider early consummation and early maternity responsible for high maternal and infantile mortality, or for any other results vitally affecting the intellectual or physical progress of the people?

13. Has there been any further development of public opinion in your part of the country in favour of an extension of the age of consent in marital and extra-marital cases since the amendment of the law in 1925? If so, is it general or confined only to certain classes?

14. Do women in your part of the country favour early consummation of marriage for their children?

15. Have any difficulties been experienced in determining the age of girls in connection with offences under Sections 375 and 376 of the Indian Penal Code? What measures would you suggest to remove or minimise these difficulties?

16. Would the difficulty or margin of error in determining the age be materially reduced or minimised if the age of consent is raised to 14 years or above?

17. Would you separate extra-marital and marital offences into different offences? If so, what is the nature and amount of maximum punishment you would prescribe for offences of each class?

18. Would you make a difference in the procedure of trials for offences within and without the marital state and if so, what would you suggest in each case?

19. Would you suggest any safeguards beyond those existing at present against collusion to protect the offender or against improper prosecution or extortion?

20. Do you consider that penal legislation fixing a higher age of consent for marital cases is likely to be more effective than legislation fixing the minimum age of marriage? Which of the two alternatives would be in consonance with public opinion in your part of the country?

21. Would you prefer to rely on the strengthening of the penal law to secure the object in view or on the progress of social reform by means of education and social propaganda?

EXTRACTS FROM THE INDIAN PENAL CODE.

NOTE.—The bracketted portions are to be omitted from and those in italics are to be added to the original as per Sir Hari Singh Gour's Bill.

SECTION 375.

375. Rape.—A man is said to commit "rape" who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the five following descriptions:—

First.—Against her will.

Secondly.—Without her consent.

Thirdly.—With her consent, when her consent has been obtained by putting her in fear of death, or of hurt.

Fourthly.—With her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly.—With or without her consent, when she is under (fourteen) sixteen years of age.

Explanation.—Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

Exception.—Sexual intercourse by a man with his own wife, the wife not being under thirteen years of age, is not rape.

SECTION 376.

376. Punishment for rape.—Whoever commits rape shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine (unless the woman raped is his own wife and is not under twelve years of age, in which case he shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both).

Section 376-A.

376-A. Whoever has sexual intercourse with his own wife, the wife not being under thirteen years of age and being under fourteen years, of age, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Extracts from the Code of Criminal Procedure, 1896, Schedule II.

Of Rape.

XLV of 1890 Section.	Offence.	Whether the Police may arrest without warrant or not.	Whether a warrant or a summons shall ordinarily issue in the first instance.	Whether bailable, or not.	Whether compoundable or not.	Punishment under the Indian Penal Code.	By what court triable.
1	2	3	4	5	6	7	8
376	Rape— (If the sexual intercourse was by a man with his own wife not being under 12 years of age.)	(Shall not arrest without warrant.)	(Summons)	(Bailable)	(Not compoundable.)	(Imprisonment of either description for 2 years, or fine, or both.)	(Court of Session, Chief Presidency Magistrate or District Magistrate.)
	If the sexual intercourse was by a man with his own wife being under (12) 13 years of age. In any other case.	Shall not arrest without warrant.	Summons	Bailable	Not compoundable.	Transportation for life, or imprisonment of either description for 10 years and fine.	Court of Session.
		May arrest without warrant.	Warrant	Not bailable	Do.	Do.	Do.
376-A	Illicit married intercourse by husband with wife not under 14 years of age.	Shall not arrest without warrant.	Summons	Bailable	Not compoundable.	Imprisonment of either description for 2 years, or with fine, or both.	Presidency Magistrate or Magistrate of the first class.

MADRAS.

Written Statement of the Hon'ble Dr. U. RAMA RAO, Member, Council of State, Madras.

1. The educated and the enlightened section of the people is generally dissatisfied with the existing Law with regard to the age of consent. The orthodox community, however, is slow to recognize the evils of early consummation of marriage but that, owing to a variety of causes it is also veering round, cannot be doubted.

2. An advance on the present law is imperative and justified on the following grounds:—

- (a) the growing increase in the maternal and infantile mortality especially of children under one year of age. The number of deaths reported annually among infants under one year of age in the whole of India is about 2 million. This does not include the children probably equal in number who are still-born. From an economic point of view it is perhaps even more serious that conditions which kill one-fifth of the nation's children within a year of birth, act also to a large extent on the four-fifths that survive, and tend to make them during the rest of their lives less fit than they might have been.
- (b) The poor physique and low vitality of the child-mothers, which render them unable to resist the onslaught of diseases such as tuberculosis, etc. The toll falls heaviest during the period of life of greatest usefulness—thus 30 per cent. of all deaths between the years of 15 and 25 are due to pulmonary tuberculosis alone.
- (c) The immaturity of the generative organs of girls at the age of 14 when consummation is legally permitted and their consequent unfitness from medical point of view for child-bearing.
- (d) The Shastraic injunction is in favour of 15 or 16 years. Manu (Lec. IX. Sec. 90), says "A girl having reached the age of puberty should wait three years (for a husband); but at the end of that time she should herself choose a husband of like (caste)" provided there is no one to give her in marriage. The age of puberty is reached by women in India at 10-12 years. Puberty between 10-12 is exceptional, while after 12 is more common and is the rule. The period of waiting after puberty begins at twelve or thereafter and lasts for three years. Between 15 and 16 years, therefore, is the marital age, the age of consummation according to Manu.

3. It is less frequent in Southern India. Not quite perceptible here, as such cases are rare and seldom occur. Such improper seduction of girls takes place only among the lower strata of society, and that generally after 14 years of age, thus coming outside the pale of sections 375 and 376 of the Indian Penal Code. Raising the age of consent to 16 may be helpful in detecting such cases more easily.

4. In the marital state, consummation generally takes place only after 13. In fact owing to the preponderance of the female population and the short supply of bridegrooms, the restriction of marriages within one's own caste and community, the heavy demand made on the parents of brides in the shape of "Vara Sulka" and other social and economic causes, the consecration of marriage, i.e., the betrothal or the thali-tying ceremony

is at present performed in most of the cases only after 13. People are thus driven by sheer force of circumstances to have recourse to post-puberty marriage. The Government would be treading on the lines of safety and prudence, if they raise the age of Consent in marital state to 15, without trespassing on the rights, liberties and the religious scruples of the people.

5. Twelve to 15 is the usual age at which girls attain puberty. Ten and 11 are exceptions on this side and 16 and 17 on the other. Early puberty depends more on social conditions and environments than on caste or communities. Dietary is also a contributory factor, the richer the diet, the earlier is the age of puberty.

6. (1) Seldom now-a-days.

(2) Very common.

(3) Rarely.

I have not known instances of these sorts coming to court.

7. Not at all. On the other hand religion forbids early consummation of marriage, before or at puberty. As I have already stated, 3 years is the time-limit prescribed for consummation of marriage after a girl has attained puberty.

8. "Garbhadan" ceremony is slowly being discarded now even by the orthodox section. Wherever it is performed, it is generally done after puberty and within a period of six months or a year at the utmost.

9. I don't consider the attainment of puberty is a sufficient indication of physical maturity to justify consummation of marriage. At least, three years should elapse after puberty for the girl's body to develop and stand the strain of child-bearing, without impairing her own health and that of her progeny.

10. I think 15 years is a ripe age for cohabitation.

11. As a medical man practising for over 30 years in Madras, I have had occasion to treat several cases of undeveloped child mothers and the weaklings born of them but I am sorry I have not kept any clinical records of such cases and so am unable to give any detailed history of them.

12. Yes, early consummation is as I have already observed certainly responsible for high maternal and infantile mortality. Illiteracy and want of proper knowledge on sex topics and insanitary conditions of life, poor food and lack of sufficient medical aid are other contributory causes.

13. The advanced section in all classes and communities is in favour of the extension of the age of consent.

14. Women in this part of the country are slowly beginning to realize the folly of early consummation of marriage for their children.

Oral Evidence of the Hon'ble Dr. U. RAMA RAO, Member, Council of State.

(Simla, 13th September 1925.)

Chairman : May I ask how long have you been practising?

A. For the last 30 years.

Q. In answer to question No. 2 you have said one of the grounds for making an advance on the present law is the growing increase in the maternal and infantile mortality especially of children under one year of age. Do you necessarily couple the fact of large number of child-marriages of girls with infant mortality?

A. Yes, to a certain extent.

Q. It is not entirely due to that. Would you call it as one of the potent causes?

A. Yes.

Q. Are there some other causes also?

A. Yes.

Q. What are they?

A. Want of proper feeding; artificial feeding in cases where the mother is not able to give enough milk to the child; ignorance of hygienic laws and insanitary surroundings to a certain extent; and want of proper nourishment to mothers also.

Q. Do you think that child-marriages really sap the vitality of the women?

A. Certainly. Because if they become mothers when they are very young, they have to support two souls, themselves and the one in the womb.

Q. Is that your experience as a doctor that early marriage saps the vitality of the woman?

A. That has been my experience.

Q. You have said that you are not able to give us the particulars of all the cases that you might have watched as a doctor. Can you tell us how many cases, approximately, came to your notice during a year, say?

A. Not less than 100 cases a year.

Q. Were all these cases of injury to the health or body of the girl or her progeny or was some such other result observable in each case?

A. Yes.

Q. Would you go so far as to say that if a mother is over 20 her vitality will still be sapped?

A. Need not be so old as 20. Below 18 there is a very great chance of the vitality suffering. Above 18 the danger is not so much.

Q. In what communities are these cases found mostly?

A. In Brahmins in my part of the country and I am myself a Brahmin. There are cases among non-Brahmins also but not so much as among Brahmins. Some of the non-Brahmins are trying to imitate Brahmins as far as child-marriage is concerned.

Q. In answer to question No. 2, you have quoted Manu, *Loc. IX, Sec. 90*, where it is said a girl having reached the age of puberty should wait three years; but at the end of that time she should herself choose a husband of like caste. Do you take it in the light that if after three years of puberty the father of the girl has been careless in not giving her away in marriage the girl has the permission to marry herself?

A. Yes.

Q. In answer to question No. 4, you have said, the Government would be treading on the lines of safety and prudence, if they raise the age of consent in marital cases to 15, without trespassing on the rights, liberties and the religious scruples of the people. Do you refer to the age of consent here?

A. Yes.

Q. Do you consider that penal legislation fixing a higher age of consent for marital cases is likely to be more effective than legislation fixing the minimum age of marriage?

A. I would prefer penalising marriages below 15.

Q. And also the age of consent to be 15?

A. No objection.

Q. Do you think that penalising marriages below a given age would be countenanced by the orthodox Brahmins in Madras?

A. For some time to come there will be some trouble. After some time it will be alright. Any how we must boldly take that step. It is worth while trying.

Q. Do you think that the disadvantages of facing orthodoxy are less than the evil?

A. Yes.

Q. In the course of your answer to question No. 7 you have said religion forbids early consummation of marriage. We have been furnished with texts which are contrary to this. Have you got any texts?

A. I have got no texts.

Q. Would you have penal legislation at all or would you depend upon education, social propaganda and things like that.

A. I personally believe in education and propaganda work. But now as you are going to enact a law it is better to have some sort of provision forbidding early marriage.

Q. Would you couple it with propaganda work?

A. I don't think that the law will be effective. The present age is 13, but so many cases go on. It has not been possible to do anything.

Q. I may point out that it is a secret act which nobody wants that it should be given publicity to. But marriage will be known to every body. Don't you think it will be more effective?

A. Yes, I think so. I personally depend more on education and propaganda work.

Mr. Kanhaiya Lal: You have recommended for marital cases, the minimum age of 15. Is that opinion based on a belief that the *shastras* forbid consummation before puberty?

A. Not only is there the shastric injunction, but I think public opinion is getting round it. For instance, I remember I was married to a girl of 12, but I have married my daughters at 15 or 16. There are many more instances of this kind. That is why I wish to raise the age.

Q. If the *Shastras* be taken to direct that a girl should be approached by her husband soon after the menses, would you still prescribe the age limit of 15?

A. Oh yes.

Q. But would that meet with the approval of public opinion?

A. I think so.

Q. What age would you recommend for extra-marital cases?

A. Sixteen.

Q. Would you make the offence cognizable?

A. No. Simply because there will be unnecessary harassment by the Police.

Q. To whom would you give the authority to make the complaint in marital cases?

A. That is a point which I have not considered.

Q. Would you give the authority to the parents or guardians or other relations of the girl?

A. Of course parents are the best persons.

Q. Would you give the right to near relations of the girl wife also?

A. I would restrict it to guardians and parents.

Q. Would you give that authority also to the relations of the husband?

A. The husband would not complain, and the parents would not like to see the husband suffer. If you like you may give the authority to the parents but not to the relations.

Q. Would you give a similar authority to social reform organizations or to women's associations in the locality?

A. I don't mind.

Q. Would you like to constitute any village panchayats in each town and locality to watch these cases?

A. You may do that, but I have very little faith in them.

Q. You are afraid they would have greater sympathy with the father of the husband than with the girl wife.

A. Yes.

Q. Can you tell us something about the system of registration of births in force in the Madras Presidency?

A. As soon as a child is born within Municipal limits you have to report to the registrar within three days. I know about municipal limits only.

Q. Is it working satisfactorily?

A. I think so. So far as municipal limits are concerned, I think, it is working well.

Q. Are the statistics reliable?

A. To a very great extent.

Q. Is the name of the child also recorded in the birth register?

A. It is not recorded.

Q. How do you prove the identity then?

A. It is stated there that such and such child was born to such and such parents.

Q. But the question of identity arises when a particular woman has given birth to two or three children of the same sex.

A. I understand, some sort of identity is necessary.

Q. Can you suggest a way out of the difficulty? The difficulty is more when a woman gives birth to two children of the same sex at the same time.

A. Some sort of declaration by the father or the mother is necessary. The name is given generally on the 10th day.

Q. Suppose we require the parents to make a supplementary report after giving the name to the registering authority?

A. You can do that. That would certainly be helpful.

Q. Suppose we further require that in every case in which a birth is reported a certificate containing the relevant entries should be issued to the party concerned to be preserved, if it cares.

A. Certainly it would be useful.

Q. Would you agree to a system of registration of marriages?

A. It is unnecessary. What is the object?

Q. If the marriage is registered and then if there is consummation some time afterwards you can always find out the ages at the time of marriage from the marriage register.

A. I don't believe that such kind of penalising will improve the matter. It is more education and things like that that can improve.

Q. Education is a salutary weapon but as it is slow in its operation, we have sometimes to supplement it by legislation.

A. That is true.

Q. How would the system of compulsory registration of marriages work?

A. I have not got any experience of that.

Q. Can you say whether the people would like it?

A. People may not like it. You are unnecessarily giving them more trouble about registering, etc.

Q. Would it not be helpful in the matter of giving the law a greater chance of efficacy?

A. In that way it may be. As you are enacting the law you may do that. For the first few years there may be some trouble but as the people come to know the law public opinion will so shape itself as to follow it.

Q. In your medical experience have you found any difficulty in determining the age in rape cases?

A. I am only a private practitioner, I have no medico-legal experience. I have no experience of rape cases. I have generally in cases of certification of age, insisted on birth certificate being produced and relied on my own personal observation of the case.

Q. Do you think that medical evidence can be relied upon in cases of this character.

A. Yes. There may be a little margin of error.

Q. Can you say whether a child is 13 or 14?

A. Yes. Up to the margin of one year you can tell.

Q. Would the margin of error disappear if the age is fixed at 15 for marital and 16 for extra-marital cases as suggested by you?

A. That is very difficult to say. It has to be proved by the records and things like that.

Chairman: Would it make any difference supposing we put it at 18 or 16?

A. Yes, it can be definitely ascertained.

Mr. Mudaliyar: In South India you say the practice of early marriage is general among the Brahmmins and there is consummation soon after.

A. Among the non-Brahmins there are some castes which practice this, for instance the Vaishyas and Komaties. Also, among the higher class non-Brahmins to wit the Saiva Vellala Community, this practice is widely prevalent now. They are trying to copy Brahmmins.

Q. Your desire is to check this practice among all these communities.

A. Yes.

Q. Among the higher castes of non-Brahmins and among the Brahmmins particularly is there growing up the practice of ignoring whatever injunction there may be about ante-puberty marriages. Is there consciousness in the community that the age of marriage must be beyond the present age and should be after puberty?

A. Yes.

Q. You have suggested that social reform and education may do this work in these communities. Do you realise that social reform and education have not been able in any country to achieve universal acceptance?

A. It can be said that in a very large majority, about 75 per cent. it has achieved the result.

Q. Still do not you think that to bring the remaining 25 per cent. which have been beyond the reach of the social reformer into line with the progressive section legislation is necessary?

A. I personally do not believe that it will have much value.

Q. What are your reasons for that?

A. There are no cases coming to court where the husband is guilty of an offence of that character. Because the parents do not want that the boy should be punished. They are not willing to give it publicity.

Q. Supposing these cases were tried in camera without the names of the parties being disclosed, would that make any difference in bringing these cases more into light?

A. It is quite possible, just as in divorce cases in America.

Q. Would you approve of the establishment of women magistracies to try these cases?

A. If you can institute a court like that, that would be good.

Q. Would you make any difference between marital and extra-marital cases so far as punishment is concerned?

A. The punishment must be the same.

Q. You are not particularly in favour of a low punishment for a husband where the victim is the child wife.

A. No.

Mrs. Nehru : You say you don't believe in legislation and punishment, but supposing the punishment is made very light will it be more effective then?

A. Whether you increase or decrease, I don't think it will have any effect. I believe in education and social reform work.

Q. Even if it does not have much effect will it be useful as a propaganda measure to stimulate public opinion? And judging from that standpoint do you think there ought to be any change in the punishment?

A. You provide any punishment. I have no faith in penalization. As you are enacting the law, you may provide some sort of punishment. I do not think any punishment, light or heavy, will have any effect.

Mrs. Nehru : Don't you think that less punishment or nominal punishment will make this law more effective?

A. No. It is a sort of propaganda work and if no cases are tried, the propaganda purpose will fail.

Q. Don't you think that if the punishment is decreased to fine only more cases will come to court and there will be more propaganda on account of these cases coming to court?

A. Yes.

Q. Then the reduction of punishment will be a means of making it effective?

A. To a certain extent.

Q. Can you tell us what is the cause of this law being ineffective so far?

A. Parents are not very anxious to expose their children.

Q. Why do not other people expose them?

A. It is very difficult to know.

Q. The consummation of marriage in the form of Gauna or Garbhadhan ceremony in most of the provinces of India is a public thing.

A. As long as it is not possible to prove the age of the girl it is not possible to bring cases to light.

Q. Do people hold different ideas as regards the marriageable age of their daughters in different parts of Southern India?

A. Practically all over the Madras Presidency there is not much difference.

Q. Is there any difference in rural and urban areas?

A. There are more early marriages and more infant mortality in villages than in big towns.

Q. What is the cause for that?

A. Because they are less educated than the people in the big towns.

Q. Do people in the villages know the existence of the law?

A. I do not think so.

Q. If we provide any means for spreading the knowledge of law, will that be beneficial?

A. Certainly.

Mrs. Headon : Have you come across any cases of definite injury at the consummation of marriage in young girls?

A. I know of one solitary instance of a girl and a boy living together, the girl was 10 years old. About a year after consummation, the girl was brought to me with a big tumour in the abdomen. I examined the case and found it was foetus. The boy of course admitted that he had had sexual intercourse with the girl. She, in the usual course delivered and after that she had had 7 or 8 children.

Q. Did she suffer much?

A. No, she was a healthy girl and her children are quite healthy.

Q. Had she attained puberty?

A. They told me that menses did not appear but I did not believe it.

Q. Have you come across cases in which there had been severe injury to young girls?

A. No.

Q. Some of the witness have told us that they have met with cases of mental derangement. Have you come across any such cases?

A. No. I came across some cases of hysteria.

Q. Do you think hysteria is more common in the young wives?

A. No, it is more common in the elderly women.

Written Statement, dated the 7th August 1928, of Mrs. KAMALA-DEVI CHATTOPADHYAYA, Honorary Organising Secretary, All-India Women's Conference on Educational Reform, Dhareeshwar Gardens, Bangalore.

1. Yes, there is much dissatisfaction with regard to this law, because it has not functioned in a way as to ensure the purpose with which it was made.

2. It is absolutely necessary that a distinct advance should be made. Physically and mentally 13 and 14 are ages which are far from satisfactory as being the limit for fixing the age of consent. That is the period when the girl undergoes the gradual change which is the first process by which she is ushered into the state of womanhood. Puberty is not attained in a day as some ignorant people might believe, and what is called so is only the first sign of a new development that she has entered upon. The whole process of it is long and stretched over years sometimes. At this transitional stage, therefore, sexual life has no meaning for her. On the contrary she is very liable to come to much grief, mentally and physically, by entering upon her sexual life at that time. It is therefore most essential that the age should be raised if the Act is to be of any benefit to the girls concerned. Girls at that age moreover have little or no idea of the seriousness or the consequences of the sexual act. It is therefore sheer mockery to talk of her consent. The Indian girl moreover has so little contact with boys and is naturally so terrified of them very often, that she might easily surrender without any intelligent understanding of what she is doing. In fact this is often the case.

But with regard to the married girl, there is hardly any point in raising the age of consent without correspondingly raising the age of marriage, as also making proper provision for the dissolution of marriage. Otherwise any law which functions merely to prosecute the husband for cohabiting with the wife will bring only disaster to the couple.

3. It is rather difficult to gauge the extent of the crimes of seduction and rape prevalent in the country, although one hears of them often enough. The amendment of 1925 has not gone towards producing better results. The reasons are many. Outside the legal circles and the few educated people, this law is not as well known as it should be. And even when these crimes do occur among those who know the law, the people concerned are usually not favourable to the idea of going to the law-courts and creating much scandal as they are bound to, mostly due to the fact that people are ignorant and do not grasp the essential root of the matter. Thus the law courts are resorted to when the case turns out to be very serious or if there is any previous personal animosity.

All this can be combated and the law made to yield useful results first by the spread of education and the introduction of sex hygiene in schools,

and in the course of teaching, laying special emphasis on the dangers of premature and early sexual intercourse. For the benefit of the public at large, the Public Health Department can usefully broadcast information regarding the uses and the abuses of sexual life, incidentally mentioning the provision made by law to deal with such cases. But this will have to go hand in hand with general propaganda to raise the legal age of marriage thus destroying the unhappy notion that a girl is physically fit to enter upon her full physical life at the absurd age of 13 and 14. This notion is largely responsible for many of the sexual evils prevailing in our society. And so it is very important that the general psychology of the people should be made healthier and cleaner. The custom of early marriage is also greatly responsible for the precocious sexual instinct in our youth. Thus this custom has worked much against the Sections 375 and 376, and prevented it from producing its full beneficial results.

4. The amendment of 1925 has not brought much relief to the married girl either by postponing the consummation of marriage or stimulating public opinion or delaying the age of marriage. No doubt the age of marriage is rising gradually and opinion is favouring it, but it is certainly due to other causes than the existence of this Section or the Amendment. I am personally of opinion that the law relating to the age of consent cannot bring the necessary relief to the married girl. I am aware of cases where the law has been deliberately ignored. The married girl is usually very helpless in the hands of the husband or his party. She is often threatened with desertion and the threat is carried into effect, if she or her parents resist the husband's wishes. There are instances where the Hindu husband has taken another wife to himself because the girl would not surrender to him. Unfortunately the Hindu law permits the man to marry any number of times while the same right is denied to the girl. This weakens the whole case against prosecuting the offending party and that is where the law has failed. Society does not look with any favour on a deserted wife even though she be the injured party. The idea of absolute surrender to the husband has reigned supreme for so many ages that neither the girl nor her parents and least of all the orthodox society in which these child-wives abound, can be made to view the necessity of resisting overtures on the part of the husband, much less would such people think of prosecuting the offender. There are several cases, and they are now on the increase where the girl has not been willing to offer herself but getting no support from anyone in withstanding the husband she has submitted to him and suffered quietly. Even cases of suicide under such circumstances are not unknown.

Moreover it hardly seems justifiable to prosecute the husband especially when he happens to be a young ignorant, nervous boy, as so many of them are among the orthodox sections of the community. He is more to be pitied, for he is but a sad victim of an abominable custom that places him in such dangerous situations and unnecessarily taxes his energy and resistive power. What he needs is *protection* and not prosecution. Moreover if the girl and her party do prosecute the man, surely the foundation of a happy and successful marriage is not laid. It might mean only a life-long bitterness. It is not a happy augury to start life by sending the husband to jail or even submit him to public disgrace, particularly when he happens to be a helpless young man. There have been instances where young boys have been forcibly married against their will and they have fallen easy victims. Are these victims to be subjected to further misery? Is it not punishment enough to be thus physically and mentally degraded? Such prosecutions are justifiable where elderly men who marry for the second, third or fourth time are concerned. But to put into force against young helpless boys is only cruelty. Thus the only way of ensuring the health and happiness of the married couple is by postponing the marriage itself, and that will not be practical as long as there is no legislation to prohibit marriages below a certain age. In fact some unscrupulous orthodox people make use of the existence of these Sections 375 and 376, for trying to perpetuate child-marriage and

although the section itself may often be violated, they are in a position to hoodwink the public into believing that their children are safe, being protected by it.

5. The usual age at which girls attain puberty ranges from 11 to 14. There is no marked difference in the age between the different communities, although there is perhaps a greater tendency to attain puberty earlier in those communities in which child-marriage abounds, since the associations tend to stimulate the sex instinct in the girls earlier than in other community girls.

6. Cases of cohabitation before puberty are not very common. In the extremely orthodox communities the married girl is subjected to cohabitation soon after she attains puberty. These girls are many a time below the age of 13, since these girls are married when they are 11 and 12 as the common belief is that she should enter wedlock before she attains puberty or she will become unchaste. Very rarely do these cases come to court, partly because the very orthodox section of the people do not believe they are violating any law and partly because they wish to avoid public scandal.

7. There is no religious injunction anywhere in the Hindu Shasthras or Scriptures to support child-marriage or early consummation. Such an interpretation has been put upon certain passages in the Manusmriti. Child-marriage did not exist in any form in ancient or medieval India. It was only when the country began to degenerate due to external attacks and internal convulsions, that the law-makers thought it necessary to enforce some stringent rules like these as they believed they would safeguard the young girls by doing so. This practice is now being kept up without any intelligent understanding of its origin or its usage, and to maintain and justify its existence, the Shasthras are quoted and interpreted in a manner to suit the prevalence of it. Their rigid conservatism does not permit them to see the custom in its true perspective.

8. The Garbhadan ceremony is performed in our part of the country among certain communities. It coincides with the consummation of marriage. It is performed any time after the girl attains puberty, the interval between the two depending on the social views of both parties or also the economic circumstances. There is no doubt that the tendency to delay the ceremony is on the increase, but among the extreme orthodox sets the common belief that the ceremony should be performed on the 5th day after the girl attains puberty still prevails and is observed. But in any case it is rarely put off for more than two years at the very most. The delay in the performance of the ceremony does not always keep the married couple apart. There have been some cases where cohabitation has taken place between the two before the performance of the ceremony itself.

9. As previously explained the girl does not attain puberty in a day. She goes through years of development before she can be safely said to be mature enough to enter upon this life. Strictly speaking her growth attains its fulness only when she is 18, although one may in a legal enactment put 16 as a minimum, but that can only be as a step towards raising it to 18. It is when she is physically and mentally matured that she can be safely said to give intelligent consent to the sexual act. If however in her immature state a sexual life is forced upon her, it will only lead to serious consequences.

10. I should put the age at 18, but in any case never before 16.

11. I have come across cases where cohabitation soon after puberty has resulted in serious injury to the girl, as also the progeny. In one case the girl was 12 and she got paralysis and for two years she was confined to bed. But she never really came back to her normal health. In another case the girl was paralysed for life. The age was 12. The third case where the girl was 13, after about 10 years in bed, she was able to move about, but always with a bent back. Her growth was completely stunted. Even in that state she was made to bear children. The fourth case the girl was 11.

She developed heart disease and finally went in for tuberculosis. All these cases were declared by several doctors to have been due to early consummation of marriage. Girls going in for heart disease, tuberculosis, nervous debility, hysteria, are very common among those girls who have been victims of early married life. Their children are always feeble and undeveloped. The very foundation of their constitution is clearly undermined. I know of a case where even the habit of self-abuse in a small child was traced by the doctor to immature consummation of the parents' marriage. Serious disorders of the womb often leading to more dangerous and often incurable diseases are common results. But apart from the physical disorders there have been cases of mental disorders as well. The shock has ended sometimes in enfeebling the girl's mind and stunting its further growth. Then it has also served to create a terror of the husband in the heart of the girl. I have seen over half a dozen cases where the girls used to shriek at the very sight of the husband. Some have refused to go back to the husband or failing every help committed suicide. This attitude on the part of the girl is rarely understood or sympathised with. She therefore receives no support from any one. Some try to resist the man and sustain physical injuries at the hands of the husband. I know of one case where the husband used to actually strangle the girl for resisting him and the girl was between 12 and 13. Her parents took away the girl but when the husband went to court it could not be proved that the girl had been ill-treated and so the law ordered her to go back to the husband. There are hundreds of cases that one comes across quite commonly in our country where the girls have suffered, their homes have been broken, all because of premature sexual life.

• 12. Yes, I am strongly of opinion that early consummation and early maternity are responsible for the deterioration of the country. The statistics clearly support this view. Early maternity which is but the result of early consummation, means weak children and a weak nation. It subtly goes on undermining the whole constitution of the nation. A nation that consists of physically undeveloped mothers and children, must naturally suffer intellectually also. When children are brought into the world in an unfit condition to face the struggles of life, it does not prophesy the building up of a strong nation. Physical deficiency weakens the intellectual calibre as well. Apart from its being a physical and intellectual disaster, it is an economic disaster also. The Director of Public Health in Bengal said the other day "On an average 7 lakhs of children were dying every year in Bengal under 15 years of age, that is about 50 per cent. of the total number of deaths. A country which was suffering such economic loss could not but be poverty-stricken. The loss to Bengal from the death of her boys and girls was Rs. 3 crores every year". Thus this problem of infantile mortality goes very deep and works havoc all round. Early maternity is a serious handicap to educational development too. The education of girls is broken when they have but hardly begun it. The education of boys among the poorer classes too is arrested since they are forced to seek some means of earning for their wives and children. Even otherwise it proves a serious distraction to students. The married couple has no chance of enjoying a quiet married life even for a while since they are already burdened with children when they start life. The ambition in many young men is badly crushed if they are overburdened with the one task of making both ends meet. It mutilates the initiative and the adventurous spirit in the youth. This is a great loss indeed to any country.

13. There is a growing desire to raise the age of consent among the intelligentsia because people are coming to see the evil effects of early cohabitation. Even those who do not practise this reform in life are now prepared to intellectually sympathise and support the idea. The orthodox section of course is opposed to its being applied with in marital relationship because they think a secular body like the Legislature is not entitled to interfere in the sacred relationship of marriage. As for dealing with unmarried cases, outside the legal circles and the few public-spirited men and women, nobody seriously bothers about the question.

14. Women as a rule do not favour early consummation for their children, as they are the greater sufferers and the memory of the suffering they had been through in their childhood days, induces them to stretch out their hands to help their children. But the public opinion is not developed sufficiently to encourage them and being timid by nature and made more so by ages of suppression, they have not got the courage to go against the society's opinion and invite social scorn and often much ridicule. Such women now accept the custom as an unavoidable evil.

15. Difficulty in determining the age of the girls is experienced in many of the smaller places where the births are not always recorded. The only way of getting births registered faithfully and making people realise their general responsibility with regard to the law and its application, is by the spread of education.

16. The raising of the age of consent within marital relations will not in any way solve the difficulty. In such cases the law will not function and if it does, it will bring only misery to the girl and greater unhappiness and finally, perhaps ruin her life. It would be hard on the boy too to bring him into public disgrace when he is not responsible for the offence, in fact he is as much an offended party as the girl herself.

17. There is an ocean of difference between marital and extra-marital cases. They fall into two different divisions very naturally. An extra-marital offence is certainly a grievous crime and needs to be dealt with severely. But no secular or religious sentiment can say so if it is within marital relationship and particularly when the offender happens to be a young man, as is usually the case. It is nothing short of sheer cruelty to punish the young men who are as much victims of an abominable custom as the girls. Such cases need to be prevented and the boys and girls protected by law that will raise the age of marriage itself and save them from this yawning abyss. For extra-marital cases, I feel that imprisonment and fine as they stand at present are sufficient. I am not in favour of transportation for life unless the man has a distinct tendency for such offences, and even under these circumstances he needs medical treatment and not the prison seclusion. For if the criminal instinct in him is suppressed in this way it might take some other shape of expression. But if no other provision can be made for him as a last resource he may be transported for life as he might prove a danger to society. But otherwise even if the result of rape be very serious, it cannot be said that the man is a confirmed criminal. The circumstances might have been abnormal or his physical condition may have been in a disordered state and such like things.

18. The trial of the offender without the marital state may continue as before. I am not in favour of bringing the husband to book for a technical offence like this when morally he is not responsible.

19. Ample protection should be afforded to the accused under Sections 375 and 376, because this particular offence is not like other offences, and has to be studied psychologically as well.

20. Public opinion here favours the fixing of a minimum age of marriage by legislation in preference to the raising of the age of consent, except in the small very orthodox set of people who are in a hopeless minority. It is not only a more effective way of dealing with the problem, but it is the only way of finding the most satisfactory solution for it. Here again, merely fixing the marriageable age at 14 for girls relying on a higher age of consent to save her even for another two years from a married life, will not mean anything. And therefore raising the age of consent to 16 even for married girls will not benefit them unless and until the age of marriage as well is raised at the same time. The age of consent within the marital relationship is a vain talk. The section has been a dead letter so far and will remain so in future.

21. Penal law is absolutely necessary to raise the age of marriage. But in its absence and in the absence of a law permitting the dissolution of marriage, the age of consent law strengthened by any other clauses will

fail in its object. Penal law is always necessary to enforce any piece of legislation. Education and social propaganda must go hand in hand with social legislation, for the successful working of both. Each by itself is hardly an effective way of dealing with the situation. One supplements the other. As society exists to-day and all other conditions that constitute it, do not permit of very favourable circumstances for spreading education and reforming social views as quickly and as thoroughly without the help of some piece of legislation that will not only facilitate the spreading of the new idea but will also hasten the pace of progress.

Oral Evidence of Mrs. KAMALADEVI CHATTOPADHYAYA, Honorary Organising Secretary, All-India Women's Conference of Educational Reform, Bangalore.

(Simla, 13th September 1928.)

Chairman: Is the All-India Women's Conference on Educational Reform a permanent body or does it only hold annual meetings?

A. It is not a body or an association. It comes into existence when we meet. The only permanent body is the Standing Committee. We have all the provincial associations co-operating with us.

Q. Is it a sort of executive body?

A. Yes.

Q. How many members it consists of?

A. It has representatives from each constituency. At present we have 37 members.

Q. Are you the organising secretary?

A. Yes.

Q. Does the question of marriage come within your purview? Do you deal with questions other than education?

A. We do not take up other questions except education but we have taken up this question of marriage and age of consent, because it has got a direct bearing on education, for, if the girls are married very early and become mothers early, then their education is retarded.

Q. How long has it been in existence?

A. The All-India Conference met in January 1927; but the activities started in 1926. Between September and December there were a number of conferences held in various provinces but the thing actually came into existence when we met at Poona in 1927.

Q. May I know what efforts have been made with regard to these two questions?

A. We have been holding meetings all over the country.

Q. Can you tell us where you have had meetings under the auspices of this Conference?

A. We have had meetings in all the central cities and towns such as Bombay, Madras, Calcutta, Lahore, Nagpur and in other smaller towns also.

Q. As an organising secretary have you got a record of these meetings?

A. Yes, I have got full record.

Q. Would you please give us the dates and places of the meetings and the resolutions passed? We will be interested to see them.

A. I cannot say whether I will be able to give you all the information, as since then so many meetings have been held.

Q. Do you think that the views that you have offered us are shared by a large number of your Committee members?

A. These are my personal views.

Q. Have we any means to know what the Standing Committee would think of it?

A. I placed these views before our Committee meeting in Bombay last month and all the members who were present agreed with the views that I have submitted but it has not been possible for me to present them to the All-India Conference. But as the members have individually sent in their replies to the questionnaire there is nothing further to submit on behalf of the Conference.

Q. Did as many of the members as were present agree to it?

A. Yes. Eight members were present and almost all of them were prominent members.

Q. It appears from your evidence that you are in favour of penalising marriages and most emphatically whether there is the Age of Consent Act or not. Is that so?

A. Yes.

Q. You do not attach much importance to the age of consent because you are in favour of the view that there must be some legislation about the marriages. Is that correct?

A. Yes.

Q. Is that view shared by the conference?

A. Yes. At the All-India Conference at Poona the original resolution was only to ask for the age of consent to be raised and then an amendment was brought in to the effect that we should penalise marriages as the age of consent law did not seem to protect married girls. That amendment was passed unanimously. This was reiterated again at Delhi when we met there in February 1928.

Q. May I take it that it is the deliberate wish of the Conferences at Poona and at Delhi that they would prefer to have the age for marriages laid down rather than the age of consent?

A. Yes.

Q. Have you any suggestions to make whereby we may not antagonise the large orthodox class and yet attain the object we have in view?

A. I do not see it being done in any other way except by propaganda work especially in the case of most of those illiterate women who cannot read literature on these advanced ideas or come in contact with new thoughts. All that we can do is to hold meetings and try to explain things to them. From my personal experience I must say that they seem to be very amenable to change.

Q. But as things stand at present there is a large amount of orthodox opinion. Have you any suggestions to make to reconcile the two wings?

A. No.

Q. The Brahmans in the Madras specially favour pre-puberty marriages. Recently in "Stri Dharma" there was an article by one Mr. Iyar to the effect that the marriages should be penalised only up to 10 years and the age of consent raised to 15 or 16. Would you advocate such a thing?

A. No. It has not worked so far.

Q. Do you mean to say that it does not secure the object in view?

A. No.

Q. Have you thought of the question of having some sort of compromise in some way whereby we can attain the object in view and yet satisfy the orthodox opinion?

A. No, I am not in favour of such a compromise.

Q. In paragraph 4 of your written statement you say "in fact some unscrupulous orthodox people make use of the existence of Sections 375 and 376, for trying to perpetuate child-marriage and although the sections them-

selves may often be vitiated, they are in a position to hoodwink the public into believing that their children are safe, being protected by them". What exactly do you mean by this?

A. They think there is a law but really there is no protection.

Q. Further in paragraph 7 you are emphatic in saying that there is no religious injunction. Are you referring to any particular passages there or are you giving your own opinion?

A. I am not referring to any particular book but I have heard it from several pundits who are interpreting it in a very different way in Madras and have in several of the meetings quoted it. They have explained to me that religion does not advocate child-marriage and they have said that in ancient India child marriages did not take place. Therefore religion was not responsible for introducing child-marriage.

Q. Have you seen a book by Mr. Srinivas Sastri against child-marriage quoting texts?

A. No, I have not read it.

Q. In paragraph 11 you have referred to cases of early motherhood and their evil results. Are they within your personal knowledge?

A. Yes.

Q. In paragraph 12 you refer to early consummation and early maternity as being responsible for the deterioration of the country and you say the statistics clearly support this view. What statistics you mean?

A. Statistics which are issued with regard to births and deaths among women and children.

Q. Can you refer us to any publication or have you collected these statistics yourself?

A. I collected these statistics myself and I can supply you a copy.

Q. Do they lead to the inference that early maternity is necessarily concomitant with infant mortality?

A. That is how medical opinion says it.

Q. I am referring to the statistics that you collected?

A. Yes, early maternity has a great effect.

Q. You have expressed the opinion that you would not have the husband punished in any case under the Age of Consent Act or any other penal act of that kind.

A. Yes, I would not punish the husband.

Q. Would you rather prevent early marriages?

A. Yes.

Q. Suppose there is a girl over 14 and below what is good enough for maternity, would you in that case use the Age of Consent Act to prevent consummation of marriage under a certain age?

A. It is worthwhile having such a law and making an effort though it will not be very effective.

Q. What age would you then have for the age of consent?

A. Eighteen outside marital state and 16 within.

Q. Under Sarda's Bill marriage for girls under 14 and boys under 18 is penalised. You are for 16 for girls within the marital state for the age of consent. There are two years left over there. Would you rather have the Age of Consent Act work in its own way?

A. Yes, howsoever little its effect may be.

Q. Supposing penalisation of marriages by Sarda's bill or otherwise does not come to pass, what is the remedy that you suggest?

A. We will have to see that it is passed somehow.

Q. Supposing it fails, what would you recommend?

A. I do not think I can recommend anything.

Q. You think that the law has been ineffective.

A. It has been so and it will be so.

Mr. Kankaiya Lal : What is the minimum age you propose to fix for the marriages of girls.

A. Sixteen.

Q. How would orthodox opinion like the idea of the minimum age being fixed at 16?

A. They will not like it at all.

Q. Would there be opposition to it?

A. I think so.

Q. How would the rural classes like the idea?

A. I do not suppose they know very much about it. There is very little propaganda done in the villages on the subject. The villagers are not informed about the laws at all.

Q. If you fix the minimum age of marriage at 16 is there not a great possibility of a large number of prosecutions having to be started in the rural areas for the infringement of the law.

A. Yes.

Q. Would you make a provision that in special circumstances permission might be granted by a specified authority recognised by the Legislature for getting the marriage celebrated before the prescribed age?

A. No.

Q. Are you aware that this has been done in some of the States?

A. Yes, but it might be very much abused. Everybody may want to take advantage of it.

Q. But the authority would not grant permission in every case.

A. I would not make any such concession.

Q. Suppose the parents are unwell and they are anxious to settle the girl in life while they are still alive, fearing that if the persons in charge are dead, the girl might be cast adrift, would you not recommend it then?

A. Supposing the girl had been a very little child, will they get her married in the same circumstances? They would then make some provision for handing over the child to somebody. The same thing might be done in all cases.

Q. Suppose these people disobey the law and risk the fine or any other punishment which might be imposed, would not the result then be that the marriage will stand valid?

A. I daresay that in some cases the law will be disobeyed.

Q. And to provide for these cases would it not be better to have a higher age of consent than the minimum age fixed for marriage so that even if the marriage law is disobeyed there will be another law to prevent consummation?

A. If they break one law, they would not mind breaking another.

Q. But the breach of the second law will probably involve a higher punishment.

A. But they might still risk the punishment.

Q. Probably you realise that no law can prevent crimes. Time after time the laws are disobeyed by people who are inclined to do so. But can that be a reason for not having a law?

A. At the beginning there will be many more cases of disobedience. With the next generation public opinion will be worked up and it will then become a custom.

Q. Quite so. Would you therefore be in favour of a law fixing the age of consent to supplement the marriage law?

A. How do you mean?

Q. In other words,* there might be cases which might escape punishment under the marriage law but which might be checked by the law of the age of consent.

A. I do not think so. If there are such people who is going to take action against them.

Q. You said in answer to the Chairman that till we are able to raise the marriage age to 16 the age of consent within the marital relation might remain at 16?

A. Yes. I said that it is worthwhile making an attempt to enforce the Age of Consent Act till we are able to fix the minimum age of marriage at 16.

Q. In marital cases to whom would you give the authority to make a complaint? Would you make the offence cognisable by the Police or would you authorise somebody else to initiate the prosecution?

A. The complaint must be made by somebody nearer at hand than the Police. The Police might act on the receipt of an anonymous petition, or information received from outside sources. That information might be incorrect. If the offence is made cognisable by the Police, there is likely to be an abuse of the law, and it is rather dangerous.

Q. You will therefore not have the Police to do anything with the case.

A. No.

Q. To whom would you give the authority to make the complaint, the parents or guardians?

A. Yes, parents or guardians.

Q. Would you give the authority to the relations of the husband to make the complaint?

A. It is unlikely that they will.

Q. But if they care to?

A. Then, yes.

Q. Would you give the authority to social reform organisations in the country?

A. Yes, certainly.

Q. To the Women's Associations that might exist in the locality?

A. Yes.

Q. Would you constitute village panchayats or town panchayats to watch these cases and make complaints?

A. Yes.

Q. And do you think that if the authority is given to these bodies to make complaints, the law is likely to be of some effect?

A. Yes.

Q. What punishment would you advocate for marital cases?

A. I do not know. I have not thought about it.

Q. I thought your opinion was that there should be no penalty attached and that the husband should not be punished.

A. In the case of young boys it is a great injury and the girl herself is likely to suffer. But in the case of elderly men the case is different. The latter can be punished because they know their responsibilities.

Q. Would you not have a penalty varying from fine to imprisonment for those cases?

A. Yes.

Q. You have said that "the only way of getting births registered faithfully and making people realise their general responsibility with regard to the law and its application is by the spread of education". Can you suggest any other way of making registration of births more satisfactory?

A. No, only education can do it. If people come to know it and feel that they should do a certain thing, they will do it.

Q. Would you be in favour of registration of marriages?

A. Yes.

Q. Would you make such registration compulsory?

A. No, not at this stage.

Q. To whom would you give the authority to register marriages?

A. I have not thought about it at all.

Mr. Kudri : I take it that you are in favour of raising the age, so far as ultra-marital cases are concerned, to 18.

A. Yes.

Q. You want to protect the boy husband. Up to what age should the protection be extended?

A. Up to 21.

Q. Beyond that the offence should be punished?

A. Yes.

Mr. Mudaliar : Do you think that we can reconcile orthodox opinion by allowing marriage to be performed at a lower age but preventing Garbadhan ceremony being performed before a certain age?

A. No.

Q. It is a ceremony which entitles the parties to come together and almost invariably it is performed in South India. In case the boy and the girl come together before that ceremony, it is on the sly and it is not encouraged by the parents.

A. I do not think it really prevents married people from coming together. I know it from personal experience.

Q. Are there not exceptions?

A. They may be exceptions, but they form quite a large number if you take the whole country.

Q. Now, as regards marriage legislation, have you thought of the question of punishment if marriage is performed below a certain age?

A. No.

Q. Mr. Sarda's Bill as amended by the Select Committee provides generally for a fine and in some cases for imprisonment. Do you think that the punishment as it stands in the amended Bill is sufficiently preventive for orthodox opinion not to perform marriages?

A. I have not seen the Bill. But I know of a case that happened very recently where an injunction was issued on some technical ground to prevent a marriage. The marriage was however performed though the bridegroom had to pay a heavy penalty. But he did not mind it because he was rich.

Mr. Mudaliar : You say that a boy husband below 21 ought not to be punished. Is it in cases where there is a guardian who is responsible for the marriage and the consummation?

A. No, apart from the guardian, there is a conventional opinion which guides the boy at the time.

Q. You are aware that at present under the existing law the boy is liable to punishment up to 2 years' imprisonment. To that extent would you make the law lighter?

A. Yes.

Q. Do you think that a boy between 18 and 21 should be protected?

A. Yes.

Q. Do you think that he is so innocent that he needs special protection?

A. It is not a question of innocence. It is a question of conventions. It is a matter of his being subject to a particular atmosphere and conventional ideas which lead him to live a married life. After 21 he will have some contact with the outer world and education.

Q. These are two different things. Such a lightening of the law can be advocated where the boy is innocent. But in other cases like these will not he come under the law if there is heavy penalty attached to the boy?

A. The boy should in no case be punished, because I feel that he is not really responsible.

Q. Are you aware of cases in which a boy has been punished in such matters?

A. No. But I know of one case where the boy was convicted in the first instance but on appeal he was acquitted.

Q. That was evidently on the merits.

A. Might be, I do not know the technical points.

Q. May I take it that the Women's Association is at one with you in this opinion of exempting boys below 21 from the consequences of the intercourse?

A. I do not know that; but we have fixed 21 as the marriageable age for boys, and it is the age at which the conference feels that he is fit enough to undertake any responsibility.

Q. Has the attention of the Association been drawn to the fact that boys below 21 should not be punished for rape?

A. No, it is my individual opinion.

Mrs. Nehru: In your answer to our questionnaire you say that the law has not functioned. Can you tell us what the reason is?

A. In rural areas many people do not know about it. I have personally asked people and they told me that they did not know that girls were protected. As for the educated classes, they are not very anxious to have publicity given to these things.

Q. Do you think that if enough publicity is given to the provisions of the law and means are taken to make it well-known it would have effect?

A. It might, I do not know. In towns many people know it, but they do not resort to it; moreover, it is rather unpleasant that the marriage should start in such inauspicious circumstances as dragging the boy to court, or have a fine imposed on him. Even if the case is dismissed, there is the unpleasantness created. It is also likely that the boy might desert the wife and marry again.

Q. Unfortunately we have to confine ourselves to the age of consent law only and dealing with that do you think, if trials are held in camera and names are not published, summary trials are introduced, women judges and jurors are appointed to try the cases, these things will facilitate the functioning of the law?

A. It might, if perhaps the other laws also are changed, for instance in cases where the boy deserts the wife you will have to devise some other law to give freedom relief to the girl from the bondage of marriage, so that the law as it is now may become more effective than it is now.

Q. Do you think that without changing other laws, it would be of no use?

A. I doubt very much. There is the danger of the girl being deserted by the husband otherwise. At present, I know that even in cases of ill-treatment the girls do not resort to law because of this danger.

Mrs. Nehru: You said just now that if authority is given to social reform organisations, the law may have some effect. Do you think that public opinion is advanced enough for that?

A. Yes, it is advanced.

Q. The social reformers will not have an easy time of it if they are not backed by public opinion. Do you think that public opinion exists to that extent?

A. At least in the larger towns and cities it does. In the smaller places the associations will have to create public opinion; but if they start work they will win the confidence of the people.

Q. You have suggested in the course of your reply that dissolution of marriages should be resorted to. It is very difficult to have that kind of law in this country. Do you think we can have anything else to make the age of consent law effective?

A. I suggested that because in that case the parents of the girl might be more willing to take action. If the boy is prepared to desert the girl she need not be isolated. But now there is no provision for her to get married again. Why should she have a life of loneliness imposed on her? I say it because even if action is not taken legally, there have been cases that I have known where the parents have brought away the girl because of the violation of the age of consent. She has never been taken back by the husband.

Q. You have suggested differentiation between adults and boys in the matter of punishment. Can you give us any details of that?

A. No, I have not thought about the details.

Q. Will you please think out and send us the details about it?

A. Yes.

Q. In your reply to question No. 9, you have given cases of injury. Were the cases among Brahmins or Non-Brahmins?

A. Being a Brahmin I come more closely in contact with Brahmins, and my investigation has been confined more or less among the people whom I have known intimately. It has therefore been possible for me to know what led to these injuries. Some of them happened in my own family.

Q. Do you think there is any difference between Brahmins and Non-Brahmins?

A. In certain Non-Brahmin communities child-marriage does exist. But it is mostly among Brahmins.

Dr. Beadon: In the course of your answer to question No. 11, you have said, serious disorders of the womb often leading to more dangerous and often incurable diseases are common results. Can you give instances? Do you mean that these disorders are due simply to the early consummation of marriage or to frequent child-bearing?

A. No, to early consummation of marriage. That is what the doctor has told.

Q. Then you have said, I have seen over half a dozen cases where the girls used to shriek at the very sight of the husband. Were these the cases in which the husbands were about the same age as the girls or were the husbands elderly men?

A. I think only in one case it was an elderly man. In other cases men were young, below 21.

Q. Then you have said, some have refused to go back to the husbands or failing every help committed suicide. Do you know of any case?

A. I know of one case personally, but of course I have heard of several in which the girl refused to go back to the husband's house.

Q. What was the age in the case you know of?

A. Thirteen.

Q. How long before had she been married?

A. One and a half years.

Q. Did she make complaints to her parents?

A. Not complaints exactly. She was very miserable about it. Ever since she was married she was miserable.

Q. Was it a case like that in which a girl goes to her father-in-law's house and she lives practically a slave working the whole time and never

gets relaxation, or was it a case in which she could not bear the strain of married life?

A. She was pretty well off. I don't think it was due to economic conditions. She became quite a nervous wreck within about 6 months of her going to her father-in-law's house. She did not want to go back to her husband's house. She was being forced to and when the time actually came she committed suicide.

Q. What was the age of the husband?

A. I think he was 18 or 19.

Q. Then in the case which went to the court and could not be proved was the husband a young man or an elderly man?

A. He was a young man. He has now gone to England and has married an English lady and the girl has been left to herself.

Q. All these cases were in the Madras Presidency?

A. Yes.

Q. Were they Brahmins?

A. Yes.

Q. Among Hindus men are allowed to marry one, two, three or four times. Would you be in favour of a legislation preventing men to re-marry?

A. I think in such cases a man should not be allowed to marry a second time.

Q. But the law will apply to all.

A. I don't think a man should have the option unless the woman is also given the same privilege.

Q. But that is against Hindu custom. Then would you be in favour of preventing the man marrying again?

A. No.

Written Statement of the Hon'ble Y. RAMADAS PANTULU, Member, Council of State, Madras.

1. Enlightened public opinion is dissatisfied with the Ages of Consent fixed by Section 375, I. P. C., both with regard to extra-marital and marital offences. The State, it is felt, is not sufficiently responsive to general consensus of opinion among the enlightened and educated sections of the Indian Communities. It is also felt that the Legislature does not react in an adequate measure to such opinion. So far as I am able to ascertain, public opinion demands that in the case of extra-marital offences, the Age of Consent should be fixed at 18 and that in the case of the offender's wife, the Age of Consent should be fixed at 16.

2 (1) There are no valid circumstances which justify in persisting to retain the Ages of Consent as now fixed by Section 375, I. P. C.

(2) The circumstances which justify in making an advance on the present law are in my opinion as follows:—

A. *Extra-Marital*.—(i) Social conditions in India have so changed as to require greater protection being afforded by law to unmarried girls at least till they attain the age of majority as defined by the Indian Majority Act. When the Indian Penal Code was enacted, girls and young women rarely went out of their homes to places which brought them into daily contact with men. Now it is a daily occurrence for grown up girls to go to schools and colleges to study, to offices to work as employees, to mills, factories and workhouses as labourers and to various other places in the pursuit of their daily avocations in life and to

satisfy their material wants. So, a larger measure of protection should be afforded to them.

- (ii) The consequences of an illicit intercourse with unmarried girls between the ages of 14 and 18 are of the gravest kind to the girls as well as to their families, according to the social notions and standards of the Indians. The subsequent marriage of the girls, will in many cases, be impossible and they may be ruined for life. It is just at this age, i.e., between 14 and 18, that they really want security from molestation.
- (iii) The beneficial intent of Section 366-A. (Procurement of minor girls) and 372 and 373, I. P. C. (Disposal of minor girls for illicit intercourse) which fix the age of the girl at 18, will not be fully carried out, if the offender can escape the more serious consequences of Section 375, by pleading consent of the girl between the ages of 14 and 18—ages at which such procurement and disposal are naturally most common. These sections must be brought into line.

B. Wife.—The general feeling about the recent amendment of the section raising the Age of Consent from 12 to 13, is that it is an ineffective compromise. The physical development of a girl at 13 and her fitness for maternity do not materially differ from those at 12. It is hardly possible in many cases to distinguish between girls of 12 and 13. No one can reasonably contend that the evils of high maternal and infantile mortality, if they are really caused by early consummation and early maternity, can be successfully combated by raising the age from 12 to 13. If the legal reform that is aimed at is to result in any benefit to the nation the age must be fixed at such limit as will accord with correct physiological and medical expert opinion regarding the proper age for consummation and maternity. I do not believe that in any country, 13 was recognised to be such an age. If the intent of the section is to fix the age at the limit at which a girl can give intelligent consent to cohabitation with a due realisation of consequences, it can be hardly contended that a girl at 13 is in any appreciably better position in that respect than one at 12. Viewed from any standpoint, 13 is a meaningless compromise.

3. Not answered.

4. The raising of the Age of Consent has not been effective in protecting the married girls against cohabitation with husbands by any of the 3 means mentioned in this question. If there has been any putting off of marriages or consummation beyond 13, it was not due to the amendment of 1925, but to the general awakening of public opinion, and the increasing difficulty, owing to economic and other causes, of securing suitable bridegrooms in the matrimonial market. It is not possible to make it effective so long as the age is at 13.

5. The usual age at which girls attain puberty is between 12 and 14. This does not differ materially among the several castes of the Hindu community. I am not aware of the conditions of other communities.

6. Cohabitation before puberty is very rare. Cases of cohabitation after puberty when the girl is below 13 are not uncommon. Such cases do not come into courts.

7. While the practice of early marriage before puberty is undoubtedly due to the religious belief that great merit attaches to "Kanyadan" (giving away of a girl in marriage before puberty) and that "Rajawala" (post puberty) marriage is unmeritorious, it is difficult to say that the early consummation is due to a similar religious notion. It is true that there is a text to the effect that the sin of "Broomahatya" (Infanticide) will be

incurred by a parent who keeps a "Rajawala" (post puberty) daughter without mating her with her husband. But this injunction and the fear of incurring such sin, can hardly be said to account for early consummation. I shall deal further with the causes of early consummation in my answer to questions 14 and 20.

8. Garbhadana ceremony is performed in South India generally after puberty; it coincides with the consummation of the marriage and is often performed soon after puberty.

9. I do not consider that the attainment of puberty, except in rare cases, is a sufficient indication of physical maturity to justify consummation of marriage. The age of such physical maturity is a matter of expert opinion. As a layman, I can say that at least a period of 2 years shall have to elapse after puberty to give the necessary physical development to the girl.

10. Not below 16.

11. Not answered.

12. I do.

13. Such development of public opinion as there has been since the amendment of the law in 1925, is due to the realisation that the amendment was utterly inadequate to meet the requirements of the situation. It is general among enlightened and educated Indians.

14. The mothers of the girls do not favour it, but mothers-in-law do. The girls' parents feel helpless to prevent early consummation for fear of offending the girls' husbands and their family. Antagonising the relations of the girl's husband is fraught with the gravest consequences to the future welfare of the girl among many castes in the Hindu community. So their wishes in the matter of consummation are implicitly obeyed.

15. Not answered.

16. The difficulty or margin of error will be materially reduced if the Age of Consent is raised to 16, but not if raised to only 14.

17 and 18. It is desirable to treat extra-marital and marital offences under different heads and to make offences against a wife triable by a first class magistrate and those against non-wife by a sessions court. In the former case, a maximum punishment of 2 years rigorous imprisonment, with fine will suffice. In the latter case, a maximum punishment of 5 years' rigorous imprisonment with fine will suffice. These sentences may be out of tune with the Draconian character of the rest of the Penal Code. But there does not seem to be any reason to retain the punishment of transportation for life as in the present section.

19. Not answered.

20. The question as framed implies that one of the two alternatives suggested alone may be an effective remedy. I do not think so. If the legislative reform contemplated is to be really effective, it is necessary to fix by penal legislation a higher Age of Consent for marital cases and also to fix a minimum age for marriage. To fix a higher age for consummation alone leaving the evil of child marriages untouched, will not produce materially beneficial results. So long as child-marriages are not prevented, no appreciable change can be brought about in the mentality and the social outlook of the people. The fixing of a minimum age for marriage will have quick reaction and bring about a marked change in the angle of vision of the parents on whom the burden of marriage rests according to the Indian customs. So long as they are allowed to marry their children at any young age they please, the evils of child-marriage are never brought home to them. The detection and punishment of husbands who cohabit with their wives below the Age of Consent will be a matter of considerable difficulty in practice. Notions of social justice as they are at present obtaining in India, tend towards sympathy with the husband who is after all charged with

the offence of cohabiting with his own wife with her consent. When the whole weight of social sympathy is thrown on his side, the task of bringing him before a court of law and getting him punished which is largely entrusted to the hands of Indian police and magistrates will not be performed with any zeal or abstract sense of duty. The root cause of the evil is the child-marriage and that must be removed. The consummation of the marriage, in a majority of cases, is a ceremony dictated by the husband's relations. No Hindu family can resist the demand of the husband's relations to send a married girl to their home, without blasting for ever the prospects of happy married life to her. The wrath of the mother-in-law is more mighty than that of the gods. So, reform at the top, i.e., at the age of consummation, will in practice be found not so efficacious as the reform at the bottom, namely the stage of marriage.

At the same time, if the age of marriage is raised to 14, but the Age of Consent is left at 13, it will not serve much useful purpose and will be anomalous. When the minimum age of marriage is fixed, the Age of Consent must be automatically raised above 13. So legislation is required, not in the alternative, but in both directions. The raising of the Age of Consent will no doubt provoke less opposition than the fixing of a minimum age for marriage, but enlightened public opinion sees the necessity for both and favours both.

21. In matters of social legislation, I accept the dictum laid down by Sir Malcolm Hailey in introducing the Bill to amend Sections 372 and 373, in the year 1924. He said that "when the legislature makes each new step forward, it will have behind it a body of solid and convinced public opinion prepared to make the law effective. Thus only can be secured that the social law should not be the sole creation of the legislature but that it should in fact be the endorsement at each stage of the social standards of the great mass of thinking men in the community to which it relates."

I maintain that the great mass of thinking men in the Hindu community unquestionably believe in social standards which require that the minimum age for marriage should be fixed as 14, the Age of Consent in the case of a wife should be fixed at 16 and that the Age of Consent in the case of an unmarried girl should be fixed at 18.

• • Addendum.

I have been advocating for sometime the intervention of the legislature to suppress the custom of dedicating minor girls to temples as what are called in South India "Devadasis". I have asked for four specific measures in this connection: They are:—

1. The amendment of Sections 372 and 373 of the I. P. C. so as to make the dedication of girls to temples resulting in enforced celibacy and a life of promiscuous intercourse, offences within the meaning of those sections. In effect I am asking the law to definitely presume, until the contrary is proved, that employment as devadasis is equivalent to employment for purposes of prostitution.
2. The prohibition of adoption by dancing girls. At present adoptions made for immoral purposes are no doubt treated as nullities, but it is open to a dancing girl to make an adoption of a young girl and plead that it was not for an immoral purpose. Such adoptions are held to be valid; but the inevitable consequence of upholding these adoptions will be to make additions to the families of dancing girls, who wish to perpetuate their nefarious trade, being themselves sterile in many cases. So, to make the remedy effective, a legal prohibition should be placed on adoptions by unmarried women of the dancing girl's castes.

3. The amendment of the law of guardians and wards so as to provide for removing minor children from the custody of women who openly lead lives of prostitution and to enable managers of rescue homes, recognised social workers or relations and friends of the minor children who intend to look after their welfare, to obtain custody of the children through judicial and executive intervention.
4. The reform of the law relating to religious endowments by prohibiting the employment of devadasis for services which are considered by social customs to be incompatible with married life and by relieving devadasis from liability to forfeiture of their service inams for non-performance of the dancing services in the temples.

I have discussed the exact scope of these legislative reforms in an article contributed by me to the September 1928 issue of the Madras Law College Magazine, and I shall forward a copy thereof for the perusal of the Committee as soon as it is published.

**Oral Evidence of the Hon'ble Mr. V. RAMADAS PANTULU, Member,
Council of State.**

(Sinha, 14th September 1928.)

Chairman : I understand that under your presidency there was lately a meeting in Madras where the Age of Consent Bill was supported.

A. Yes.

Q. What is that new institution by which the meeting was organised?

A. It is called the Dharma Paripalana Sabha.

Q. May I know what the objects of that Sabha are?

A. There is an organisation called the Hindu Sabha or the Sanatana Dharma Sabha. Ours is an organisation which was started as a counter-move to that organisation, whose main object was to oppose the Age of Consent Bill and the Child Marriage Bill.

Q. Can you give me details of the other organisation?

A. It is an organisation started by one Mr. Srinivasacharya, a vakil, and consisting of vakils and Brahmins mostly. Mr. M. K. Acharya is its guiding spirit. They started the organisation mainly to oppose the Child Marriage Bill and the Age of Consent Bill. Ours is an absolutely new organisation consisting of some of the young men mostly from colleges. These young men formed an association under the presidency of Mr. S. K. Yagnanarayana Iyer, Professor of English in the Pachaiyappa's College. It is an entirely new organisation whose object is to support these measures.

Q. I want a little more information about these organizations. How long has the Sabha been in existence?

A. About 2 years; since these bills were introduced.

Q. And yours?

A. About 6 months.

Q. One more thing. Government has received a large number of petitions from Madras. The subject matter is a printed one and signatures have been taken from several districts. Do you think that these might have been inspired by the counter-institution that you are talking of?

A. There is one Mr. Ramaswami Iyer who has come here and is canvassing support in favour of the existing state of things from members of the Assembly and the Council of State. I know the Sabha has sent a representative here. People are going about the country taking signatures. They think it is right to do so. Yes, it is a fact.

Q. Where these petitions are inspired, what is the value that is to be attached to them?

A. Leading members of the orthodox institution are going about the country taking signatures saying that religion is in danger, etc.

Q. Leading members of this institution?

A. Yes.

Q. But I understood that their opposition was only to the Child Marriage Bill.

A. No, they oppose both the Child Marriage Bill and the Age of Consent Bill. They think that both are more or less the same.

Q. In the course of your answer to question No. 4 you have said, that it is not possible to make the law effective so long as the age is at 13. Do you mean to say that if it is raised to 16 it will be more effective?

A. Certainly.

Q. Do you mean that if the Age of Consent is fixed at 16 the law will be effective or you mean that the age of marriage should be fixed at 16?

A. I think both are necessary.

Q. Supposing you merely raise the Age of Consent to 16. Do you think it will be effective?

A. I don't think it will be very effective. It will be effective to a certain extent but not very effective.

Q. Do you think, Sarda's bill for instance, is a more potent remedy for effecting the object in view?

A. I want both these together. Neither of them by itself will be sufficient.

Q. Supposing in Sarda's bill we put the ages at 16 and 18 and no Age of Consent, do you think it will be effective?

A. Personally I would like it, but I do not advocate it as a public man.

Dr. Beadon: You don't advocate it as a public man because you think it would be difficult to enforce it.

A. Quite so. There are very many practical difficulties in the way of working it.

Chairman: Do you think if marriages are penalised below a certain age as is attempted in Sarda's bill, it will strengthen the hands of a large number of people who want to evade pre-puberty marriages but by force of custom of shastric injunction are constrained to do so. Do you think there is a class of people who would do it but for the custom or other shastric injunction?

A. Yes. I think many will welcome this measure as against their shastric law. After all law is also Dharma.

Q. Do you think that class who does not want pre-puberty marriages but has got to do for some reason or the other will be strengthened if we penalise marriage before 14?

A. In what way?

Q. That is to say, they will have a cover, they will say 'here is the law we can't go against it'.

A. Certainly if you make a law it will be taken advantage of by everybody. Even those who believe in Shastras are finding themselves economi-

cally impotent to enforce Dharma Shashtra. In the case of boys it has become practically impossible to marry them to any girl before they are 20 and have received sufficient education, until they have passed their B.A. Every man however orthodox he may be feels it and this bill, I think, will save him.

Q. There is a large amount of orthodox opposition in Madras. What would be the amount of discontent if Sardar's or Gour's bill is passed?

A. The dissatisfaction will go only to the extent of holding meetings and protests in the papers.

Dr. Beadon: In Madras there is a large number of girls in colleges. Are most of them married?

A. Yes, about 60 per cent. are married.

Q. Is there no objection to these married girls going out into colleges and schools?

A. No.

Q. Are some of them widows also?

A. Many of them are not widows.

Q. What percentage of them would be widows?

A. I can't say exactly, but it is a very small percentage.

Q. In answer to question No. 12, do you consider early consummation and early maternity responsible for high maternal and infantile mortality, you have said, I do. Can you give us any definite cases in which you might have noticed these results?

A. Oh, yes here and there when I go out in the country I find these girls of 12 and 13 suffering from maternity troubles. I have known many cases of labour ending fatally.

Q. Have you noticed any case yourself?

A. Yes.

Q. How many?

A. I can't say exactly, at least I know of 6 or 7 cases.

Q. Have you known any cases in which the girls returned to health?

A. There are cases in which the girls returned to health.

Q. Would you say that there was a large proportion of such cases?

A. No, most were injured.

Q. Would that be your opinion then?

A. Yes, that is my general impression. I cannot vouch.

Q. What would you say about the children of these immature mothers?

A. They are generally very weak.

Q. Weak at birth or weak due to bad feeding?

A. Weak at birth and not on account of bad feeding.

Q. You have not answered question No. 11. You have had no experience.

A. No, I know of no cases.

Mrs. Nehru: When you advocate advancing the Age of Consent do you think that that section of society which is in favour of reforms is larger than the orthodox section in order to justify the advance?

A. I think so. It is not a question of numerical majority. It is a question of influence in the society. I think if those ignorant and the uneducated who are indifferent are excluded that section is in majority.

Q. Do you think so far fixing the Age of Consent at 13 has been effective?

A. Not at all.

Q. Why do you say then that we shall be justified in making an advance?

A. The minimum age has been too low to be effective. Half measures are never effective. It is very difficult to distinguish between 12 and 13.

Q. If people at the present time are in favour of consummation before 13 how do you say they would be in favour of postponing it to 16 if we do not adopt any other measures besides raising the age?

A. People who are not against consummation before 13 will be against raising the age at all.

Q. Do you think we can adopt any measures to compel them to raise the age?

A. One measure is to marry girls late.

Q. Can you suggest any other measure? Supposing we give the right to social reform societies to enforce the law, do you think it will be of any help?

A. I don't think so because of the difficulty of securing the conviction. You cannot distinguish between a girl of 12 and a girl of 13.

Q. If the age is raised to 15 and the power of complaint and prosecutions is given to social reform associations do you think it will then be effective?

A. You have got to take some measures to enforce the law which you enact.

Q. Do you recommend that social reform associations be permitted to launch prosecutions?

A. That will be effective.

Q. Do you think that the punishment provided by the law is sufficient?

A. For marital cases certainly it is sufficient.

Q. Do you think if the punishment is reduced to fine only or simple imprisonment for a very short period it will facilitate the bringing of such cases to light?

A. You mean repugnance to prosecutions will be reduced if the punishment is reduced. It won't be unless you make it very low say till the sitting of the court or a small fine only. There will probably then be more prosecutions.

Q. Would you advocate a mere fine then?

A. I am no authority on punishment. It is no use keeping any punishment unless it is effective. In the case of co-operative movement embezzlement was not punished at the beginning. Similarly here you can begin with a small punishment.

Q. My question is whether you will advocate fine only, so that more cases might come to light.

A. Maximum of two years has been provided. I will give the magistrate the option. He can impose either a fine or imprisonment or both.

Q. Would you make any difference in the procedure of trials? Would you advocate summary trials?

A. I would rather have proper trials and appeals.

Q. Would it be better if the power of judging these cases is given to women magistrates?

A. I do not think so. Any magistrate would do.

Q. Outside marital state you have suggested the raising of the age to 18. In that case do you think there should be one universal law applicable to all, or do you think that in the case of boys whose age is below a certain limit a lighter punishment should be provided.

A. I consider the question of punishment is for the court. The Legislator has only to give the maximum. The magistrate can always be relied upon to use his discretion.

Q. Leaving aside exceptional cases do you think that owing to the prevalence of the custom of what is called Garbbadan ceremony the fact of the cohabitation of a husband with his wife can be detected and that there is thus a chance of checking cohabitation?

A. By whom?

Q. By the public.

A. If the public realise their duty and get correct opinion about this matter it will always be possible to check. It depends upon the stage of public consciousness.

Q. Do you think that public consciousness is awakened to such extent that if social reform associations are given this power they will take advantage of it?

A. No.

Q. Would you like the police to be eliminated from the investigations of these cases?

A. I would like the offence to be non-cognizable as at present in the case of marital relationship.

Mr. Mudaliyar : You have suggested 14 as the minimum age of marriage, 16 as the Age of Consent for marital cases, and 18 as the Age of Consent for extra-marital offences, and you state that a compromise on these matters fixing the age at 13 is not advisable because it does not satisfy orthodox opinion nor does it satisfy the requirements of medical science.

A. Yes, that is my view.

Q. Would you rather take a single jump and fix the age which is necessary to satisfy the requirements of medical science than have a compromise with the orthodox people in a matter like this?

A. Quite so.

Q. You also agree in the view that in matters like these a gradual advance means constant revision of the law which results in mere agitation and irritation each time. If we put the maximum age once for all we will have to fight the battle once only and that is why you have suggested the age 16.

A. That is my view.

Q. As regards marital and extra-marital offences you have said that they may be treated under different heads. Would you suggest that these may be classed as different offences altogether? I may tell you that objection has been raised that marital offences should not be termed rape. The Madras Vakils' Association has suggested this.

A. If it satisfies some people I have no objection. You may call it by some other name.

Q. I understand you are against fine being the only punishment.

A. I would leave it to the magistrate. I will give the alternative, fine or imprisonment or both.

Q. You have appended a very interesting annexure about Devdāsies. Whatever may be the theory the adoption of girls by Devdāsies means an immoral life and the adopted child is adopted for the purpose of augmenting the resources of the family by her earnings from immoral practices. Do you think that the evil is so universal that steps should be taken to stop this adoption altogether?

A. Yes.

Q. You have suggested 18 as the Age of Consent for extra-marital cases. But you realise that there is no such age for boys. Suppose the girl is of 18 and the boy is of 16 and there is relationship between them with the consent of the girl. Now because you have raised the age to 18, the ques-

tion of consent does not arise. Will you make provision for such cases or would you leave it to the magistrate?

A. I will leave it to the magistrate.

Mr. Kadri: Are you in touch with Mohammedan sentiment in your Presidency?

A. I have got some intimate Muslim friends.

Q. Can you tell us what the general idea of Mohammedans is with regard to this legislation?

A. No, I cannot.

Mr. Kanhaiya Lal: For marital cases you recommend the age limit of 16. Would that be acceptable to the orthodox community generally in the Madras Presidency?

A. I don't think they will rise against the Age of Consent. Their trouble is about the age of marriage mostly. There is a section however, a very orthodox section, which objects to social legislation altogether. That section cannot be reconciled to anything. They think Government has no right to legislate in social matters.

Q. Is that a small section among the orthodox community or a large section?

A. That is fairly large.

Q. Those who would oppose legislation.

A. They will oppose anything that is done by the legislature in these matters. They have got their own objections.

Q. Would they oppose even 14?

A. They would. They say you ought not to legislate in these matters at all.

Q. Would the rural classes accept it?

A. I think they are mostly indifferent. I have not been able to ascertain their opinion. I don't think the rural classes will object to the Age of Consent. They will object to the age of marriage.

Q. Do you think their poverty will not allow them to postpone the marriage.

A. No, in the case of very poor people these girls are a source of income to the family. Among the labouring classes they go to the factories and earn for the family. Among the middle classes the considerations vary.

Q. If you raise the age to 18 outside the marital relation, do you think there is a danger of hardship to young boys of lower or equal age being seduced or falling a prey to temptation?

A. There is nothing like America in India. I think their numbers are not very many. Female education is not very advanced. They go into public institutions when there are proper safeguards.

Q. Is there no co-education in Madras?

A. Very very small. For inter-collegiate lectures they have to be together. Really there is no co-education. They have got their own colleges and they have their own lectures. In Madras there are two colleges, the Queen Mary's College and the Women's Christian College.

Q. Have they separate classes in law medicine and other kindred subjects?

A. There have been very few law students. In medicine the classes are common.

Q. In the United Provinces in law and science girls and boys sit together. Girls sit on one side and the boys sit on the other side.

A. It is not so in Madras.

Q. Have you a system of registration births in your Presidency?

A. Yes.

Q. Is it working satisfactorily?

A. Yes. When the child is named another report is made.

Q. Is it required by law that parents should make a supplementary report giving the name of the child?

A. There is no law but it is the practice.

Q. Are these records preserved permanently?

A. I think they are kept for 20 or 40 years. They are sent after a year to the Taluk office from where they are sent to the Collector's office.

Q. Are you certain that these are permanent records?

A. Yes, I have obtained copies of entries 40 or 50 years old for litigation.

Q. Would you recommend that in these cases a certificate should be issued by the registering authority to the person making the report showing the essential particulars about birth so that he may also have a copy and there may be no interpolation later on?

A. In the municipalities it is granted.

Q. Are you certain that in rural areas this is done?

A. No.

Q. Would you recommend this being done in rural areas also?

A. No. It will entail too much work on the village officer and we cannot create an establishment for this.

Q. Would it not give better security against future interpolation, if the man who makes the report is also given a copy of the certificate?

A. At present interpolations occur in cases of disputes about properties and when questions of minority arise. After this, there will be questions about punishment under the criminal law I think the proper thing would be to keep registers in safe custody and appoint proper men as record keepers. I do not advocate the issue of these certificates.

Q. As a further safeguard would you recommend the registration of marriages?

A. No.

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**Written Statement, dated the 8th August 1928, by Dewan Bahadur
C. V. VISWANATHA SASTRI, Tondiarpet, Madras.**

1. So far as rape by a man on a woman other than his wife goes, there does not appear to be any dissatisfaction with the state of the law. As regards rape by a man on a woman who is his wife, no such cases have come to the notice of the public for the expression of approval or disapproval with the state of the law.

2. I am for making an advance. "Consent" implies 'an intelligent consent with a due realization of consequences', as stated in question 10. The ages now fixed preclude the possibility of any intelligent consent being given. The very poor physical development of most girls, the miseries they suffer after early child birth; the puny condition of their babies; and the high rate of infant mortality; all justify an advance.

3. Yes, fairly frequent. The amendment of 1925 was too insignificant to have any tangible effect.

4. No cases within the marital state have come before the public eye in these parts. But from this I am not prepared to infer that the evil sought to be eradicated does not exist. Our social life is such that such cases will not be brought to light. The marriage age is imperceptibly rising not because public opinion has been stimulated by the amendment of 1925, but from economic reasons. The merciless exaction of large dowries and the increasingly heavy marriage expenses, are the main causes

If rich and able to meet these charges, educated fathers do not hesitate to marry their girls at ages below 13. When questioned the reply is "I do not want to miss a good chance." It is only sheer necessity that has forced many fathers of girls to put off marriage. As regards the postponing of consummation, I have not come across a single case outside my family where this has been put off beyond a year after attaining puberty. Postponement is due, not to any advance in public opinion, but to the lapse of time caused by the parents of the bride and bridegroom wrangling over the quantity and value of the nuptial presents. At last an ultimatum is sent with a threat of a second marriage and the girls parents give in.

The most effective step will be to fix the marriage age at 15 or 16; and enacting that all marriages below this age are invalid.

5. I will put it at between 12 and 14 among brahmins. I am told it takes place later among the labouring classes.

6. I am not aware of any case where cohabitation has taken place before puberty. As I already said, it takes place in 90 per cent. of cases within a year after attaining puberty. No cases have come to court to my knowledge.

In the case of widowers who marry again, the girl invariably goes and lives with her husband immediately after marriage. No fuss is made when the girl attains puberty, and no Garbadan ceremony is performed. In these cases it cannot be said for certain that there is no cohabitation before puberty. And it is idle to expect such husbands to wait after puberty comes on.

Cases do occur where, without actual puberty having come on, the girls parents are forced to raise a false cry and undergo all the expenses which are incidental to their status in life, and celebrate puberty *tamashas*.

7. I am not aware of any religious injunction enjoining the consummation of marriage before puberty. Nor is there any positive injunction to the effect that it should take place at puberty. Judging from the willingness of "Religion in danger die hard", to legislation for postponing the consummation of marriage, I may take it that there is no injunction of any kind at all.

From the episode of Indra and Ahalya in the Adyatna Ramayanam, it may be said that cohabitation should usually be confined to "Ritukalam". Indra says to Ahalya "Ritukalam prateekshante na arthinas susamhitah"; implying thereby that she should not reject his overtures because it was not ritukalam for her.

Manu says "Reprehensible is the husband who does not approach his wife in due season" IX (4).

Both Goutama and Vishnu say that a maiden not given in marriage although 3 monthly periods have passed, can unite of herself to a blameless man. XVIII (20) and XXIV (40).

But these texts cannot be construed as being mandatory, and no penalty is imposed.

A maiden does not lose caste in case she chooses to remain unmarried, and Manu says this should be so in case a suitable husband is not available. In the case of upanayanam, it is expressly laid down that a brahmin loses the claim to it on attaining the age of 16.

8. The ceremony is usually done here among brahmins, but there are many cases where it is not done, and no stigma attaches to such cases. In my family it has not been observed for 3 generations. Widowers who remarry seldom go through it.

The very word indicates that it must coincide with the consummation of marriage. It is performed generally after the attainment of puberty and is seldom delayed more than a year after this event.

9. No, I would allow at least 2 years to elapse between puberty and consummation, or till the girl has completed her 16th year, whichever date

is the latest. Even according to Sushruta consummation should only take place at the age of 16.

10. This is rather a very general question. It all depends upon the education imparted to the girl in matters of health and the responsibilities of motherhood. The girl is never consulted before she is made to go and live with her husband. I am afraid even our college educated boys do not realise the consequences of early motherhood on the part of their child wives. The parents of the girl are the best persons to guide the girl, but they are powerless. The legal guardian of the girl after her marriage is her husband, and he can marry as many wives as he pleases. If the parents of the girl hesitate to allow consummation there at once comes the ultimatum "will you obey or shall I get for my son another wife". With our social laws as at present constituted, it is idle to expect any free and intelligent consent on the part of the girl. The law must fix an age high enough to safeguard the health of the girl. That is why Sushruta has advised consummation at 16.

11. This is a question for medical witnesses to answer. But this much I can say, I have rarely seen a girl of 16 or 17 with a baby in her arms, looking healthy. Needless to say anything about the health of the progeny.

12. Yes I do. I would add that other factors are also responsible such as bad feeding during pregnancy; absence of fresh air and exercise; and cohabitation carried on even after an advanced stage of pregnancy has been reached. Even in villages not to speak of cities and towns, such healthy domestic exercises as pounding paddy, grinding corn, etc., have disappeared owing to the advent of mills. All kinds of flour which years ago were prepared at home, are now to be had ready for use, even in village bazars.

13. I am afraid no. There is an advance in marriage age, but this is due, not to any development of public opinion, but to the pernicious system of demanding large dowries; and the ever rising scale of marriage expenses. I say there is no advance in public opinion because the educated rich have not undergone a change. I am unable to see any extension of the Age of Consent, as I have not seen cases where it is delayed for more than a year after puberty.

The mother of the child wife always wants to postpone consummation; but the mother-in-law is always eager to have it rushed through. Her eagerness is due to the system of nuptial dowries prevailing in the South. The health of the daughter-in-law is no concern of hers, as she is certain of getting another daughter-in-law in case the one already got becomes an invalid. A threat of a second marriage always makes the mother of the child wife, to yield.

15. So long as there is no general system of registering births, there will always be a difficulty. It is always easy to get two doctors to fix the age differently especially when 1 or 2 years difference in their estimates counts for everything. Development in a girl's physique is more rapid after puberty than before.

16. I am afraid no, if it be raised to 14. But raising it to 16 may lessen the difficulty, because the advance in physical development is greater after puberty.

17. Yes. In the case of marital and extra-marital offences, the present punishment is enough.

18. Offences within the marital state should be tried in camera and newspaper reports of the evidence, prohibited.

20. No, unless the age is fixed sufficiently high, say at 16. I am in favour of fixing a minimum age for marriage, and this will be a very effective lever for raising the Age of Consent. I despair of getting prosecutions instituted for violation of any Age of Consent law in marital cases. From letters appearing in the press, and measuring public opinion by its

volume, my view may not succeed. But if it is measured by its quality I am sure to win.

21. I despair of effecting any social reform by education and propaganda. The reforms hitherto effected are due to sheer necessity impelled by economic causes. It is the educated rich that are the worst sinners in the matter of early marriages and early consummation.

Oral Evidence of Dewan Bahadur C. V. VISWANATHA SASTRI.

(Madras, 17th November 1928.)

Chairman: In answer to question No. 4, you have stated: "If rich are able to meet these charges, educated fathers do not hesitate to marry their girls at ages below 13. When questioned the reply is I do not want to miss a good chance. It is only sheer necessity that has forced many fathers of girls to put off marriage. As regards the postponing of consummation, I have not come across a single case outside my family where this has been put off beyond one year after attaining puberty. Postponement is due not to any advance in public opinion, but to the lapse of time caused by the parents of the bride and bridegroom wrangling over the quantity and value of nuptial presents. At last an ultimatum is sent with a threat of a second marriage and the girls parents give in." I believe this part is due to your own experience of matters?

A. I may state that I served 124 years in Tanjore as munsif sub-judge and District Magistrate. The Brahman population of Tanjore is equal to the Brahman population of all the 12 districts here. I speak from personal experience and from what my friends told me.

Q. Do I understand you therefore to say that barring the fact of the consideration of the husband's party being well-to-do people the consideration of the health of the girl hardly touches this question of marriage?

A. The consideration of the health of the girl and her well being, it she becomes a mother before 15, hardly comes in. There may be one per cent. such cases but 99 per cent. go the other way.

Q. Does it follow that all are like that?

A. I will illustrate the state of affairs in this province. There is a rich Brahman prosperous vakil in Tanjore. He is worth several lacs and his son was married to the daughter of another leading gentleman in Madras. The boy by some evil deed contracted some disease and the doctor who operated upon him warned him that he must not have anything to do with his wife for another 2 years. The boy got alright temporarily and came back to his father. His father asked the bride's father to send the wife. The bride's father naturally hesitated and said that the boy has been prohibited to do anything with his wife for another 2 years. The boy's father sent him an ultimatum that if you do not send her here I will marry my boy again. Another leading gentleman who was related to the bride's father was asked to intervene. He was in Madras and went to the bridegroom's father but the latter would not listen. He took the boy to Kumbakonam and married him a second time simply because the bride's father hesitated and the result was that within 2 months the boy died leaving two widows. This is a typical case of a very rich man and a very educated man.

Q. May I take it from your statement that there is hardly any conscious move towards raising the age of marriage or consummation and that what is done is done by sheer economic necessity and other reasons?

A. That is my sincere opinion. The educated people specially are the worst offenders. I am only speaking of the Brahman community.

Q. You further say that the girl's parents are powerless and the mother-in-law of the girl insists upon the girl being sent to her house and she has to be sent?

A. If the girl is not sent second marriage is awaiting which is generally done within 15 days.

Q. You have stated that young men hardly realise their responsibility in regard to marriage.

A. They do not realise.

Q. Is that because they are not educated in anything like human physiology and sex education?

A. The only sex education that they get is from the cinemas here.

Q. You have said that cases of connections before 13 hardly come to light and that our social customs are so.

A. How can they come to light—either the bride's father must complain or the bridegroom's father must complain.

Q. But in cases of 12 and 13 anybody can complain even now?

A. There is no public spirit here.

Q. Do you think there is a large number of girls who attain puberty before marriage and puberty is concealed in their case?

A. It is concealed.

Q. Do you think such number of cases are large?

A. It is increasing.

Q. Do you know how they tide over the difficulty of pollution in the house?

A. Pollution is a matter of convenience.

Q. Is it on account of getting suitable husbands and the enormous dowry that is asked for?

A. Yes.

Q. You say that garbhadan ceremony takes place here generally speaking, sometime after puberty and not necessarily at first puberty.

A. Generally it is within a year after the first appearance of menses. In 80 per cent. of cases it is so.

Q. When it is put off, is it put off on account of demand of the mother-in-law which are sometimes exorbitant?

A. Yes.

Q. Again there is no conscious move in the matter of prolonging consummation. Is it not?

A. Nothing of the sort; girls are treated as beasts of burden.

Q. Is there any idea among the people that consummation should be or must be performed within 15 days of the first menses?

A. There is some text to the same effect. People believe that pre-puberty marriages have to be done. I may say that in addition to the text I quoted in my memorandum I found two other authorities which are in favour of the orthodox view that consummation must take place within a number of days after puberty. It is from Parashar. Chapter 5 Shloka 5—One is that a woman who having bathed at the close of her menstrual flow does not share the bed of her husband that day or within 4 days after that goes to hell. The second is that a man who does not visit his wife on the day of menstruation becomes guilty of the sin of killing foetus.

Q. Would you put it that prolongation of consummation is perfectly tolerated by the society whatever the reason?

A. It is tolerated. Religious view is forgotten when the money view comes in.

Q. Then with regard to the raising of the Age of Consent there cannot be any valid objection to it if they do not insist on the garbhadan ceremony being performed within the first 16 days and they can put it off by one year?

A. I believe from what I have been reading from the papers and from personal talk that the so-called orthodox people would have no objection to the age of consummation being put off till a reasonable period. I have attended several orthodox meetings; the thing is that they do not make it clear. At one meeting they say one thing and at another meeting they say another thing. Their view is that consummation may be put off but not the date of marriage. They believe marriage is betrothal, that betrothal must take place before puberty but actual consummation may take place after puberty.

Q. I think you will admit that marriage of girls of 12 and 13 is only ceremonial but it is not consummated till after puberty.

A. Yes.

Mr. Mudalyar: Can betrothal be broken?

A. Even among us betrothal can be broken because the intended bride can marry again.

Chairman: In the case of widowers of advanced age you have said that anything may happen. Do you know of any instances?

A. I do not really know of any case. Immediately after marriage they live as man and wife.

Q. In their case is there no public ceremony of garbhadan?

A. I have not heard of any.

Q. In other cases, is garbhadan a public ceremony?

A. The more the money is spent the more it is public.

Q. Are you still looked upon as orthodox or are you looked upon as having gone out of the pale of Brahmanism?

A. I myself believe that I am orthodox.

Q. Generally speaking garbhadan is a public ceremony known to all and sundry, is it not?

A. The more the presents the more publicity is given to parade the wealth of the father-in-law.

Q. You have said that without actual puberty parents are forced to give presents. Why is this?

A. It is an extreme case. They extort the presents twice instead of once. They say puberty has taken place although none has taken place.

Q. That is merely for the sake of show?

A. Yes; that is only one case I know of.

Q. Do you feel that there is any conscience growing in the people about the medical aspect and the health of the girl and of the babies in marriages below 13, 14?

A. I do not think the question of health has ever come into consideration. I do not know of any consummation having been postponed because the bride was ill. In the Rainey Hospital I saw several miserable cases of girls brought in there.

Q. What does one see there?

A. Girl mothers brought in on account of womb complaints.

Q. What do you say of the nuptial dowry—is it given on the garbhadan ceremony?

A. Yes.

Q. What is usually the dowry given by a man of middle class?

A. That depends on the class. It is a question of extortion. The party of the bride's father has very little to do with it. If the man has one or two sons he waits and expects the same amount.

Q. You have said that you are in favour of fixing a minimum age for marriage. What should that age be?

A. Personally I should fix at 14 or even 16 and for boys 21 or even 24.

Q. Do you think in all these matters money is very dominant than the force of custom?

A. Yes.

Q. Do you fix any age for extra-marital cases?

A. I think you may safely place it at 18.

Q. Would you like to have the law of the Age of Consent of the marriage law?

A. I would like to have both—both are necessary. One reacts on the other.

Q. You do not think the Age of Consent law by itself would be effective?

A. If the age is fixed at 12 or 13 it would not be effective.

Q. If the age is raised to 16 will that be effective?

A. It depends on the punishment you propose.

Q. Supposing the punishment is fine only?

A. Where is the public opinion to bring these cases to light?

Q. Public opinion is not going to spring up by the enactment of law?

A. If you fix the marriage law it will be easy to detect cases.

Q. Supposing we are told that marriage law is not possible, would you raise the Age of Consent as the second best thing and if so how far would you raise it?

A. I do not think it is the second best thing, it is an alternative. I would rather have it at 14 as minimum and if possible at 16. Even our most eminent Hindu doctor Shushrat says that a girl is unfit for child bearing before she is 16. That is the highest authority that an orthodox man can have.

Q. Can you suggest to us any method of reconciling the two view points. Orthodox people want to marry their daughters at any age preferably before puberty. They may have the liberty to marry at any age, but at the same time the object of late motherhood say after 16 or just about that time may be achieved?

A. I have said that even the orthodox people are amenable to raising the Age of Consent to 15 provided there is no interference with their marriages. Consummation can only be deferred by the Age of Consent law.

Q. But does that satisfy you and people like you?

A. The last census shows that there are 2 lack of widows below 13 and such things cannot be prevented unless you have a marriage law fixing the minimum age of marriage.

Q. As you have already suggested one way of doing that would be by a marriage law. In the absence of that can you suggest any other method by which we can allow the orthodox people to have marriages whenever they like, but at the same time prevent effectively consummation before a fixed age?

A. That is a very difficult question to answer.

Q. Supposing the Age of Consent is fixed at 15 as you suggest, do you think that more cases would come to light? Do you think that there would be people who would be interested in bringing complaints?

A. I do not think that for another ten years cases would come to light

Q. Even if you raise the age to 15?

A. Still the same reasons which exist now will continue to prevail. Now I find that even some educated people are against this simple reform and they too raise the cry that religion is in danger. I therefore think that unless you give power to social reform organisations, these cases will not come to court.

Q. Do you think that the present law fixing the age at 13 is known amongst the people?

A. I do not think it is known.

Q. What is the age of puberty of girls in this part of the country?

A. From my experience of my family and other Brahmin families, I think it is between 12 and 14.

Q. Supposing a girl attains puberty at 12, have you reason to believe that consummation takes place before 13 and that there is a breach of the present law of consent?

A. I do not think cases occur before 13 because girls usually attain puberty when they are 12 and 13. But after 13 there is reason for suspicion.

Q. Do you think that if the age is raised to 15, the chances of such cases increasing are more? If so, what method would you suggest for bringing cases to light?

A. I think giving power to social reform societies would be useful.

Q. Would you like Government to appoint small committees?

A. Yes; that might be tried. First you might start with committees for the different communities without outside interference. Otherwise the communal bogey would be dragged in.

Q. Would you like the idea of letting girls be married at any age and taking bonds from the parents of the boy and the girl to the effect that consummation should not be allowed before the prescribed age, say 15 or 16? Do you think that would be effective?

A. But who is to sign the bond?

Q. The parents of the husband may do it.

A. But in some cases consummation takes place without the knowledge of the parents.

Q. Supposing there is punishment provided for that?

A. What is the object of having a bond when the law lays down the age?

Q. Do you think there is any way out of the difficulty? Do you think we can permit marriages at any age, but take bonds and make it penal for anybody who breaks it?

A. But who is to ask for the bond?

Q. Some specified authority.

A. Supposing a man refuses to give a bond, what will be done?

Q. There will be penalty for it.

A. I think it is unworkable.

Mr. Kanhaiya Lal: Can you tell us whether there are any particular communities in the Madras Presidency amongst whom early marriages prevail?

A. Amongst the Golkonda Brahmin community marriages of girls sometimes take place at the age of 4 and 5. In the Tanjore District there is a class of people called the Pazhamaneri Brahacharanam community amongst whom also early marriages are common.

Q. Do you mean the class of people called Aiyars?

A. We are all Aiyars, but these people are a sub-community amongst Aiyars. But now-a-days the practice is gradually going out. In the Chidambaram temple there are Purohitas called Dikshitaras. In their case the right to share in the emoluments of the temple comes in only when the man is married. Therefore it is common amongst them to marry babies of 6 and 7 months. But this custom is also gradually dying out.

Q. Do you know of any cases amongst Non-Brahmins?

A. Non-Brahmins are mostly free from this. But even amongst them there are certain sections in the Tanjore and Tinnevelley Districts who want to ape the Brahmins in these respects. I know of a girl in this community who was married at the age of 6 and became a widow at 7. These people are more like the Brahmins in their customs and they do not take meat, and perform all Brahmin ceremonies.

Q. Are they looked upon as high caste people?

A. They consider themselves to be higher than other non-Brahmin communities.

Q. What are these people called?

A. They are called Saivas.

Q. You recommend 14 for the minimum age of marriage. What would you recommend as the age of consummation?

A. I would put it at 16.

Q. Do you think it would be acceptable to the orthodox community in the Madras presidency?

A. The orthodox people seem to admit that the Age of Consent may be fixed, but not the age of marriage.

Q. Do you think they will accept 16 for consummation?

A. They would accept 14 or 15, but not 16. I have heard leaders of the community say so.

Q. You have suggested that social reform organisations should be empowered to look after these cases. Can you suggest any other method by which we can bring these cases to light?

A. Vigilance societies might be appointed by Government for the purpose.

Q. Do you think that caste panchayats can be entrusted with the work?

A. The caste panchayats are full of factions and they will not be of any use.

Q. Would you like these vigilance societies to be cosmopolitan in character?

A. I would have committees for every community. So far as this presidency is concerned they would be better for the present.

Q. What would you have for rural areas?

A. There also you can have the same sort of committees.

Q. Would you make marital cases cognisable or non-cognisable?

A. I would make them non-cognisable in the sense that the police cannot take action by themselves. The present law can remain as it is and the offence can be cognisable before 12 and non-cognisable after 12.

Q. Do you think it would be advantageous to have matrimonial courts for the trial of these cases, after a preliminary enquiry has been made, the court to consist of a magistrate and two non-officials or two ladies if possible?

A. I would not advise that. In my opinion one man trial is the best in these cases.

Q. What is the system of registration of births in vogue in this presidency?

A. In towns the Registration of Births Act prevails, and there is a register kept for the purpose. Every parent has to make a report to the Municipality which has usually an office for the purpose in each division. Non-registration of births is made penal.

Q. Do you think that the system is working satisfactorily?

A. It is working fairly satisfactorily in municipalities. In the villages the Village Munsiff has got a register where the entries are made and he sends up a copy of the report to the Tahsildar.

Q. Is there an obligation on the part of the parents to report so far as rural areas are concerned?

A. I think not.

Q. Is the register of births then maintained by the revenue authorities?

A. Yes.

Q. Is that system working satisfactorily in rural areas?

A. I cannot say that every birth is reported for the reason that there is no penalty imposed for non-reporting.

Q. Would you then require a penalty to be imposed?

A. I think it is better considering that questions about age come before the courts very often.

Q. Have you come across cases where questions of identity have arisen?

A. They do arise. But the register contains many columns in which are given the names of the parents, the caste to which they belong and other particulars. A little evidence let in will reveal the identity of the child.

Q. Is there a column for the name of the child?

A. The child is not usually named at the time of registration. Only the names of the father and the mother are given. But it is usual to put down in the register whether the child is the first child or second child and so on.

Q. It is not so in other provinces.

A. But here it is done.

Q. Would you recommend that a supplementary report should be required to be made after the child is named?

A. The name is not usually given to the child before the first birthday. If the name is to be entered so long after the registration of birth, the probability is that the name would be entered in the wrong place and confusion might arise. Also it is the custom amongst us for the different members of the family to give different names to the child. I therefore think that the present system is all right provided it is mentioned whether the child is the first child or the second child and so on.

Q. Are not the names ascertained recorded at the time of vaccination?

A. Only if names have been given by the time the vaccination is done. Otherwise it is not done.

Q. Do you think it is not invariably done?

A. My knowledge of the subject is confined to extracts from these registers and I do not know more about it.

Q. Do you think that the present system is sufficient for proving cases of identity?

A. Yes; it is sufficient.

Q. If we have a marriage law fixing the age of marriage and also an Age of Consent law, would it not then be desirable to have a system of registration of marriages, not for the purpose of regulating marriages, but for the purpose of keeping a register of marriages which might be useful in cases of breaches of the law?

A. It is a simple thing and no one would object to it. In villages the village Munsiff knows when marriages take place because he is the first person to be invited on such occasions.

Q. Do you think that we can therefore have a system of registration of marriages both in municipal and rural areas?

A. Yes.

Q. On whom would you place the obligation of maintaining these registers?

A. The revenue authorities in the villages and the municipalities in towns.

Q. On whom would you place the obligation of reporting the marriages? Would you place it on the parents or the priest?

A. Parents are better. The priest would more often than not be a person who has come from a village and goes back to the village.

Q. Do you recognise that marital offences are intrinsically different from non-marital offences in the sense that the latter is considered a heinous offence because it is an offence committed by strangers against unprotected girls, whereas in marital cases we only want to protect girls against physical injury? Would you therefore constitute the two into separate offences?

A. Yes; at least from the sentimental point of view I think the two offences should be separated, and there should be a separate chapter in the Penal Code for marital offences.

Q. In order that friendly relations might be reintroduced between the husband and the wife, which might otherwise be estranged because the wife will be the primary witness against the husband, would you recommend that the cases in marital relations should be made compoundable?

A. So long as under the present law, one man can marry more than one wife, there is the danger that the man might discard the wife and take another; and therefore the wife will be easily made to agree to the compounding.

Q. Would it not be in public interests to allow the cases to be compounded with the sanction of the court? In cases where there is severe injury the court might refuse to allow compounding.

A. There is no harm in having it; but once you leave a loop-hole, almost every case would be compounded.

Q. Would you not therefore personally be in favour of allowing cases to be compounded?

A. My own opinion that if a lesson should be taught to other people punishment should be given.

Mr. Kadri: In your written statement you say that if a minimum age is fixed for marriage and marriages are celebrated in defiance of the law, such marriages might be declared invalid. Do you not consider that once marriages have taken place and we declare them invalid afterwards, the progeny is likely to suffer?

A. If you want any remedy in these cases, you cannot but be drastic. The methods pursued by Kemal Pasha or Amanullah are the best in these cases.

Q. Is it not drastic?

A. It is drastic, but there is no other way.

Q. Can you not punish the parents who have brought about the marriage, but at the same time not declare the marriages invalid? That is what Sarda's Bill seeks to do.

A. I would as a compromise have the age of marriage at 12 and make the marriages below that age invalid.

Q. Sarda's Bill proposes that the parents should be punished, but does not make the marriage invalid.

A. I would have both; declare the marriage invalid and punish the parents also.

Mr. Shah Nawaz: Is there any injunction which enjoins on the Hindus to marry their girls before they attain puberty?

A. Manu says that a girl is a Kanya till she is 8, and Kanya Danam or marriage should take place when the girl is 8 years.

Q. Can you give us any texts to show that a girl should be married before 12?

A. Parasara says that a girl should be married before puberty.

Q. Granting that there is injunction, what is the belief amongst the people? Do they consider that these injunctions are recommendatory or mandatory?

A. My interpretation of them is that they are only recommendatory for the reason that the texts allow marriages even after puberty. Manu and Parasara say that if a girl is not married before puberty, the girl can choose a husband for herself if she has completed 36 monthly courses after her first puberty.

Mr. Kanhaiya Lal: In para. 7 you have put it down as three months. I presume it is a mistake for three years.

A. I had not the original text with me when I was writing the memorandum. You may be right in what you say.

Q. We are told that amongst Brahmins consummation takes place as soon as a girl attains puberty. What is the underlying idea?

A. If you ask the orthodox people for the reasons, they quote texts and say that they have been enjoined. They quote Parasara and say it is a religious injunction. Amongst us there is a ceremony called the Seshahomam ceremony on which occasion the Mantras recited are the same as those recited on the day of the Garbadhan ceremony, and they are Mantras addressed to a girl who is fit and fully developed to attain motherhood.

Q. Do not these people think that the couple should get a son as soon as possible?

A. According to Manu the very object of marriage is to beget a son. In all houses there is a grandmother who will always be wanting to have a grandchild.

Q. Is it the idea that the desire of the girl should be satisfied as soon as she attains puberty?

A. I have not known of cases where the girl herself wishes it. In fact I have never known of cases where the girl is consulted in these matters.

Q. Do girls of 15 or 16 desire to be married?

A. I do not know that. But I can say that even in the West the natural desire of a girl is to get married. In girls there is a natural yearning to get married. But I cannot say whether the desire comes at the age of 15 or 16.

Q. Do you think that boys of 18 or 19 or girls of 15 or 16 desire to have children?

A. I think in the case of Indian families generally there is a desire to have children because the mother-in-law looks down upon a daughter-in-law who has no children. Otherwise there is the fear, on the part of the girl's parents, that the husband of the girl might marry a second time.

Q. But what about the couple themselves?

A. The bride herself and the bride's parents naturally desire that there should be children, otherwise there is the fear on their part of the man marrying a second time.

Q. You say that the marriage age might be fixed at 12 if necessary, but that marriages below that age should be made invalid. Do you think that it would be accepted by anybody?

A. The orthodox people generally would not agree to it because they will say that it is an interference with religion.

Q. But would non-orthodox people agree to the measure?

A. From my discussions with many people I found that they are for fixing a marriage age and declaring marriages below that age invalid. I have suggested an extreme penalty, because extreme evils can only be met by extreme measures.

Q. You say that the minimum age of marriage might be fixed at 14. Would orthodox people agree?

A. Orthodox people would not agree. In Mysore there is a legislation fixing the minimum age of marriage. The age is fixed at 8, but I understand that even this was hotly opposed by the people, but Shankaracharya whom the Maharajah consulted on the point agreed that the age of marriage might be fixed by law at 8. This silenced the oppositionists.

Q. Supposing the Legislature were to fix the minimum age of marriage at 14, would the orthodox people accept it?

A. No. They will raise a hue and cry and say that religion is in danger. But I do not believe that in South India any opposition would be serious.

Mr. Mudaliar: Would you be in favour of fixing the age of marriage at 12 by legislation?

A. I would even reduce it to 11 by way of agreement if we can declare marriages invalid before that age.

Q. May I take it that that suggestion has no reference to the present enquiry?

A. It has no reference to the Age of Consent enquiry at all. I put it entirely on a different ground, namely to eradicate the evil of child widows. But at the same time I think that the Age of Consent law and the marriage law will strengthen each other and both coupled together will have a greater force.

Q. You suggest that social reform organisations might be given power to start prosecutions. What machinery would you have for recognising these organisations? Do you suggest that the local Governments might frame rules under which the associations might be recognised?

A. Formerly there was an organisation called the Dharma Rakshana Sabha which was given power to initiate scheme suits, but that organisation is defunct now. I think social reform associations might be recognised on the lines of that institution.

Q. In that case there will have to be such associations in each district. Do you think that we can have sufficient number of such associations?

A. It requires honest men to work the Act. I think we can have sufficient number of them.

Q. Do you think communal trouble will creep into these bodies?

A. That is why I say that each community should have a separate body.

Q. Then that will not be a social reform association as such.

A. It must be so for the present.

Q. Would you prefer them to territorial bodies?

A. Yes.

Q. You say that in many cases husbands demand possession of their wives. Do you think that the law of guardianship might be changed, so that the parent of the girl might continue to be the guardian up to the age we fix for the Age of Consent?

A. I have come across cases under the Guardians and Wards Act where the husband insisted upon the possession of the wife, and the court had to surrender the girl to her husband because there was the fear of ill-treatment afterwards.

Q. And there is also the fear of a second marriage.

A. Yes; that is the greatest ban, and that is why I used to advise parents to send their girls to their husbands' houses.

Q. Would you suggest that we should prevent the sending of the girl?

A. I think it should be left to the discretion of the court. But there are pitfalls either way. Once you refuse to send the girl, the man will marry again.

Q. Therefore do you like that the law might be changed so that the parents of the girl might continue to be her guardians, but they might also be prohibited from sending the girl to her husband's house?

A. There are difficulties in that too, in the sense that the bridegroom's party might become stubborn.

Q. Would you have a separate chapter for rape in marital cases?

A. Yes.

Q. What would you have for punishment in marital cases? Supposing the Age of Consent is fixed at 15, would you have graded punishment?

A. There is no use having graded punishment. I will have 5 or 7 years and leave it to the discretion of the court to make it simple or rigorous according to the nature of each case.

Q. Do you think that a bare fine would be sufficient after 12?

A. Fine would not affect a rich man, and these offences are more common amongst rich men. I do not think that fine alone would be deterrent.

Q. What age would you have for extra-marital cases?

A. I would have 18.

Q. What would you fix for marriage in the case of boys?

A. 21.

Q. Do you think that the boy's morals would be affected if the age is fixed as high as 21?

A. It is a very difficult question to answer. But I may say that even now consummation does not take place generally before the boys are 21.

Q. Is it so even in Brahmin families?

A. Yes; even in Brahmin families it is seldom that consummation takes place when the boy is less than 21. And there is also the other reason that it takes a long time for people to arrive at a settlement as regards the money, presents, etc.

Mrs. Brij Lal Nehru: You have suggested that the marriageable age of girls is rising owing to certain reasons which have nothing to do with the personal welfare of the girls concerned. Then what is the motive of these public meetings here in Madras and elsewhere supporting the bill for the raising of the age?

A. Public opinion on this matter has changed and people think that there should be a check to early consummation.

Q. Are there any other causes on account of which the age of marriage is increasing?

A. The reformers do it consciously for the welfare of the girl.

Q. You say that there are certain cases where the husband marries a second time immediately after the death of the first wife? Are such cases frequent?

A. It is very common for widowers about 35 or 40 to marry a second time within six months or a year after the death of the first wife.

Q. You want marriages to be made invalid if they are celebrated before the minimum age fixed. Do you not think that such a measure will not meet with public approval?

A. I know it will not meet with public approval. One reason that will be put forward by the orthodox people against it is that the State should not interfere with religious matters. But my main object in advocating such a measure is to prevent the existence of a large number of child widows. The fate of Brahmin widows in the Madras presidency is horrible. I would rather revive Sati than allow the present state of things to continue.

Q. You say that in some cases there is some Tamasha and there is a pretext that puberty has been attained though actually it might not have been attained. Do they in such cases send the girl to her husband?

A. It is with that object in view that the Tamasha takes place. But such cases are exceptional and they do not prevail to any extent.

Dr. Bradon: You say you are in favour of fixing the Age of Consent in extra-marital cases at 18. Do you think there will be trouble in enforcing the law amongst Devadasis?

A. I do not think there will be any difficulty. If you can enforce the law at 16, you can equally enforce a law at 18. * *

Q. Do you not think there would be evasions of the law?

A. There will be evasions.

Q. Do you think that the law will on the whole be followed or disregarded?

A. It will be followed only in a small percentage of cases.

Q. Would you suggest any possible way of enforcing it?

A. It will have to be enforced in the same way as it is done now.

Q. Do you think that girls are likely to get immoral if they are kept unmarried after 16?

A. That depends upon association. But even apart from associations I think there is danger of girls going wrong after they attain puberty.

Q. Is there so in ordinary families?

A. I was talking about prostitutes. But in ordinary families there is no such danger. Even now child widows are found in almost all houses and there is no such danger.

Q. In the case of these child widows, is there extreme watchfulness on the part of the parents? We were told that amongst some communities in Calicut the treatment accorded to unmarried girls is very bad. Is that so here in the case of child widows?

A. There is no such restriction here. The girls are allowed to move about freely, and they are allowed to take part in all public functions.

Q. You say that you have seen girls of 16 or 17 having babies and looking unhealthy. Is it on account of early motherhood or on account of unhygienic surrounding and other causes?

A. Now-a-days life is getting more fashionable. Our ladies do not do one-tenth of the work which our mothers and grandmothers were doing. They have no physical exercise. The old habit of women pounding paddy and grinding corn is gone. All these tend to ill-health in our girls.

Q. Amongst the evil results, how much do you think is due to bad feeding, and absence of fresh air and exercise and how much to early marriage? Do you think that early marriage is one of the main factors?

A. I think early marriage is one of the main factors and a potent cause. I think early motherhood sets fire to latent evils and increases them. Supposing a girl of 14 who has no exercise or fresh air becomes a mother, one can easily realise what the baby would be like and what the girl would herself be. There is no doubt that her health would deteriorate. But in the case of the villages it does not matter if a girl of 14 or 15 is consummated, because she has got recuperative power which the girls in the towns have not got. In fashionable families if the girls go down in health once, they go down for ever.

Q. Is there vitality so sapped that recovery becomes impossible?

A. Yes.

Q. Have you seen definite cases?

A. I see them in almost all families.

Written Statement, dated the 31st July 1928, of M. R. Ry. Rao Bahadur C. V. ANANTAKRISHNA AIYAR AYL., Advocate General, Madras.

1. There is some dissatisfaction.

2. (2) Female education is spreading. Manual labour and physical exercise for girls ordinarily available in Hindu houses are becoming out of taste. The present is a period of change. Therefore circumstances now exist which seem to justify an advance on the present law.

4. The amendment of 1925 raising the age of consent within the marital state to 13 years has been somewhat effective in protecting girls by postponing the consummation of marriage and to a small extent by stimulating public opinion in that direction. But I do not think it has been in any way effective in putting off marriage beyond 13. Educating public opinion and generally extending female education would, I think, help to make it more effective.

6. Co-habitation is not common in this part of the country as mentioned in 1, 2 or 3.

8. Garbhadan ceremony is performed generally only after attainment of puberty and on the day fixed for consummation of marriage.

13. There has been a slight development.

15. Difficulties have been experienced in determining age of girls in connection with such offences. I would suggest better and improved mode of registration of births, taking better precautions about the custody of such books, and taking particular care about recording age of girls when they are admitted into schools, it being impressed on the responsible persons about the importance of the date of birth recorded in such registers. The above would minimise the difficulties.

17. I would separate extra-marital and marital offences into different offences. For the present I would punish marital offences only with fine.

18. For the present I would suggest that the trial of both marital and extra-marital offences be held in camera, and not in public court, so far as circumstances will permit.

19. For the present I would make it a condition precedent that written sanction of the Revenue Divisional Officer of the place where the offence is said to have been committed or of the District Magistrate should be obtained before any such prosecution is launched.

20. I consider that penal legislation fixing a higher age of consent for marital offences is likely to be more effective than legislation fixing the minimum age of marriage. Marriage is considered by a very large majority of Hindus as a sacrament. Anxiety to procure proper bridegroom and difficulty in getting such, seem to so much obsess the minds of parents that with the best of intentions, parents would generally like to marry their girls at a comparatively early age though they would agree to the fixing of a higher Age of Consent for marital cases. This would seem to be in consonance with public opinion in this part of the country.

21. I prefer to rely on the progress of social reform by means of education and social propaganda, and I think that is the policy that should be pursued in such matters. I would, if possible, avoid the strengthening of the penal law to secure the object in view. But having regard to the present state of circumstances, I agree to the raising of the Age of Consent within the marital state for the present to 14 years.

Oral Evidence of Rao Bahadur C. V. ANANTAKRISHNA AIYAR, Advocate General, Madras.

(Madras, 17th November 1928.)

Chairman: Do you belong to the same community as the Pattar Brahmin community in Calicut?

A. Yes. Pattar Brahmins are Brahmins from the East Coast who migrated to the West Coast hundreds of years ago. We who have come back to the East Coast have no objection to be called Aiyars, but there are some who insist upon being called Pattars. I would also point out that there is a community called Bhattars who are a community of Purohitas and who are different from our community.

Q. You say that there is some dissatisfaction. What sort of dissatisfaction do you mean?

A. I mean that the intelligent and the educated people seem to be for the amendment of the law.

Q. Do you know of any ladies' meetings here in Madras in support of these two bills?

A. I have only read about them in the papers. I have not got first-hand information. Moreover I have not interested myself much in these things.

Q. May I know why you are not in a position to answer question 5? We have only asked what is the usual age at which girls attain puberty.

A. I have no personal knowledge about other communities, and I thought that my statement might be misunderstood as applying generally to all communities. I did not want you to think that I have more experience in this matter than I would be justified to claim. This applies to all the statements which I might make before you.

Q. At least so far as your community is concerned, will you be able to tell us what the age of puberty amongst girls is?

A. It is between 12 and 14.

Q. You have not answered questions 9 and 10.

A. I thought they were medical questions and doctors would be able to answer them better.

Q. About questions 11 and 12 do you not know of cases one way or the other? Do you not know of cases where the health of the girl suffered or was all right?

A. As far as co-habitation before puberty is concerned, I have not come across any cases.

Q. With regard to question 11 do you know the conditions of health of girls below 15?

A. My impression of the matter is that the weakness of the children is attributed more readily to co-habitation at an earlier age than to other circumstances to which in my opinion due weight has not been given. While I agree that a child born of a young mother is generally weaker, more importance seems to be attached to the youth of the mother and less importance attached to other circumstances such as bad feeding, exercise and other conveniences and all that. I would therefore draw the attention of the Committee to other factors which in my opinion deserve consideration along with the age of the mother.

Q. Would you say that early consummation of marriage is one of the reasons of the weakness of the mother and the child?

A. I think so.

Q. Is it also one of the reasons for infant mortality?

A. I think it is also one of the reasons for infant mortality.

Q. Have you known of any cases in which there has been a girl mother at 14 and the causes that you have suggested just now did not exist, and the mother has been a healthy mother?

A. I know of instances where under such conditions the mother has been healthy, she has brought forth a number of children and the majority of the children have been healthy.

Q. When did the mother have her first child birth?

A. Between 12 and 14. I cannot give you the exact answer, but I may say it is surely below 14.

Q. Do you know of any instances where it is the other way?

A. I know of a number of instances where the youth of the mother has brought about disastrous results. We should in such cases think of the girl mother coupled with the circumstances which brought about the disastrous results.

Q. What do you mean by your last para.? Do you mean to say that you would not have legislation with regard to both these matters?

A. No; I am for fixing the age of marriage as well as raising the Age of Consent.

Q. What would you have as the age of marriage?

A. I was doubting whether it should be 11 or 12. Even now I have not been able to make up my mind.

Q. And what will you have for boys?

A. About 16.

Q. And what age would you prefer for the Age of Consent in marital cases?

A. In 1891 the age was 12 and in 1925 it was raised to 13. I think that having regard to the existing circumstances there must be a further rise. After the best consideration and having consulted people, I think that fixing it at 14 would be the proper step to take at present.

Q. And what age would you have for outside marriage?

A. I have been noticing that the Legislature has been making this always one year higher than the other. But I have now come to the conclusion that we can now go up to 16.

Q. As regards this Age of Consent, have you reason to believe that there have been connections in the marital state before 13?

A. It used to be so before. And even after the Act I am not sure whether there have not been instances. But everybody feels that if there are instances they are against the notions of the community and the community is itself against such connections.

Q. Is the effect of the law being felt?

A. The law sits very lightly in these matters. It only acts as a means of general education and creates a progressive change in the ideas of people.

Chairman: Is the 'Garbhadan' ceremony generally put off beyond 14?

A. That ceremony is performed only on the day of actual consummation.

Q. Is it deferred till after puberty?

A. It takes place on the actual day of consummation.

Q. I want to know the period that elapses between puberty and the Garbhadan ceremony?

A. Formerly in rustic country parts there was an idea that consummation should take place within 16 days of the attainment of puberty. But I have not come across or heard of any consummation which has taken place within 16 days of the first signs of puberty now-a-days. My idea is that the practice is to postpone consummation not only for weeks, but I am prepared to say for months though I am not prepared to say for years after the attainment of puberty. There is generally a period of some months or about a year that elapses. The rich and the respectable families and even people who are orthodox never consent to the system of Garbhadan within 16 days of the attainment of puberty.

Q. May I take it that there is no conscious objection to the postponement of consummation as there is a belief that there must be pre-puberty marriage.

A. Post-puberty marriages are strongly objected to.

Q. There is a belief that post-puberty marriages are negatived by the Shastras. There is no such consciousness that early consummation of marriage is enjoined by the Shastras. Is that so?

A. Whatever may be the origin of it, I am not an authority. I am only speaking of the consciousness of the people. The consciousness of the people is not that there is any prohibition for the postponement of consummation.

Q. Whatever the age of consummation is, whether it is fixed at 14 or 15 do you think that the community would not accept it?

A. My idea is that we must take the community with us in these matters and there is no use advancing rapidly in matters which are of such a nature that one cannot effectively find out the crime and punish the offender. The Legislature has been moving cautiously till now and I would like that the same policy should be followed. For the time being let us raise the age by one year and see how matters go on and another amendment of the Act can be undertaken after gaining some more experience.

Q. Referring to the principle which you have just laid down of going on cautious lines and trying to effect the object if possible, do you think that if we raise the age to 14 there are any more chances of detecting the crime?

A. My idea is that even now the law is not capable of detecting all cases of encroachment. Even now when we have got the law at 13 stray cases go undetected. If we raise the age to 14 it is likely cases will go undetected still.

Q. But that applies to every section of the Indian Penal Code. So many murders are committed which go undetected. My point is if we raise the age from 13 to 14 do you think that there are more chances of the offences coming to light than what they are at present?

A. No.

Q. Chances according to you are not more. What is the objection, why do the cases not come to court?

A. When such a case is brought to court it will mean that a particular family which may have committed a technical offence will be branded. There is the stigma attached to it.

Q. Would that not continue if we raise the age to 14? How are we to detect the offence?

A. It is education and social propaganda that will be effective really.

Q. You think that the law itself will be an educative factor?

A. It will be one of the educative factors.

Q. You depend upon law as one of the educative factors only?

A. Yes, that is all.

Q. And not with the object of bringing cases to light?

A. I will leave it to the betterment of general ideas and the advancement of general education.

Q. Are there any cases of puberty being concealed by the people of your community on account of the difficulty of getting husbands and some other circumstances?

A. It is possible there would be cases. I am not able to say anything more about it. My personal knowledge is *nil*. I have not come across any cases and these are matters in which one cannot hazard opinion except on points best known.

Q. When you suggest that even the raising age will only be an educative factor and the same difficulty would exist in bringing cases to light why do you suggest a safeguard in answer to Question No. 19 that written sanction of the Revenue Divisional Officer should be obtained before any such prosecution is launched? The safeguard will perhaps gag some of the possible informants and stop all sources of information.

A. It is very easy for enemies and people who are unscrupulous to bring such matters to court. I thought that it was better to have that safeguard.

Q. Even now you and I can lodge a complaint. Do you think that the law has been abused?

A. My idea is that there have been no cases of complaint at all.

Q. You mean to say that no cases have occurred.

A. I am not prepared to say that there are no cases of the breach of the law. It is possible that there would be cases of the breach of the law, but there has been no misuse of the law.

Q. Then what is the necessity of this safeguard?

A. Having regard to the delicacy of the matter and the stigma attaching to the enquiry I thought it was proper that before sanctioning the prosecution some responsible officer should have the material before him and examine carefully before any prosecution is launched.

Q. Do you think that when the parents begin to think of the marriage of a girl there is a consciousness among the parents that the girl would suffer if she is married at 13 or 14? Do you think that they have sufficient knowledge about that?

A. My idea is that parents consider all the aspects of the child's welfare and try to do their very best but in their anxiety to get a proper bridegroom sometimes commit mistakes.

Q. I should have thought that most parents and guardians are not keen about the physical aspect of the question. They have no definite knowledge about the fact. Is there consciousness in the minds of the parents, do they realise, that if a girl is married at 13 or 14 she may be ruined?

A. In what sense? From the point of view of education, ostracism or physical ruin?

Q. Physical ruin.

A. My idea is that all these things do really enter into the minds of the people.

Q. Do you think they are alive to the medical aspect of the question?

A. Every aspect. Having regard to the other circumstances they may feel bound to select a particular bridegroom. They consider all these aspects.

Mr. Kanhaiya Lal: Can you tell us in which communities early marriages, at 12 and under, take place?

A. My idea is that during the last 10 years I have not attended any marriage where the bride is less than 10. Formerly there used to be marriages at less than 10. Now during my experience in the community about which I am able to talk I have not come across any such instance.

Q. Neither have you come across any such marriage among the non-Brahmins.

A. I am unable to talk about non-Brahmins.

Q. Can you tell me of any community in which pre-puberty marriages prevail, or in which pre-puberty marriages are considered essential?

A. In all non-Brahmin communities where they want to pose as high grade.

Q. In what kind of non-Brahmins?

A. Practically everywhere.

Q. And among Brahmins?

A. Among the Brahmins the rule is to have only pre-puberty marriages.

Q. You have said that for the present the age may be fixed at 14 and that hereafter if it proves acceptable to the people generally it might be revised. Don't you think that frequent legislation in matters of this character will give rise to fresh agitation every time and will unsettle the minds of the people?

A. We have got instances.

Q. This change was after 30 years.

A. If for educating the people upto this took 30 years my idea is that with the present advance of education an advance will be possible in about 1/10th of the time. When with 100 schools it took 30 years I think with 1,000 schools it will only take 1/10th of the time. As people get themselves more and more educated the nature of the agitation and power that it will command will vary very much.

Q. I suppose you are aware that both according to Shastrut and Vaid bhatt 16 is the proper age for safe motherhood.

A. I am not able to answer that question.

Q. Do you think that we will give sufficient protection against injury to the girl and her progeny if we fix the age at 14?

A. Having regard to all the objects of those who sympathise with this measure, my idea is that for the time being if you fix it at 14 you will have made a proper start.

Q. Whether it protects the girl or not?

A. My idea is that it will afford protection. Under the circumstances this is a step which should be taken. Whether 16 will give proper protection is a matter of proportion, but I think for the time being let us be satisfied with 14.

Q. Can you tell me my method of facilitating the detection of these crimes?

A. I have been troubling myself about it a lot but I have not yet come across any method by which these crimes could be detected.

Q. Do you think that social reform associations will be able to take up this work?

A. There is too much enthusiasm there. I don't think it will be possible to depend upon them.

Q. Would you recommend the formation of vigilance societies in towns and rural areas to look after these cases?

A. If they come into existence they will be of some little help but whether I will leave the matter entirely to them is a different question. They will be useful, but I am not prepared to leave the matter to them alone.

Q. Would you recommend communal organisations or cosmopolitan organizations?

A. Communal organisations are not likely to be effective. The Magistrate must be left to gather information from all sources available.

Q. You have said that written sanction of the District Magistrate should be obtained before any prosecution is launched. Do you make that suggestion irrespective of the age of the girl?

A. In all matters relating to such offences.

Q. Instead of having a system of sanctions would it not be more satisfactory or equally satisfactory if we require a preliminary enquiry by the Magistrate before summons, etc., are issued?

A. This is a matter of detail. I only wanted a safeguard, which is the proper safeguard I have not thought about. I thought there must be some sort of preliminary enquiry before these family quibbles are brought into court.

Q. Don't you think there is the danger of the evidence disappearing or being tampered with while this sanction enquiry is going on?

A. No.

Q. The reason why I suggested a preliminary enquiry by the Magistrate was that the Magistrate will at once start taking evidence and proceed while in the case of sanction enquiry there is the possibility or probability of the evidence disappearing.

A. I don't think the evidence will materially disappear.

Q. At present cases upto 12 go to the Sessions Judge and above 12 go to the Magistrate. Taking into consideration the fact that these marital cases are cases concerned with the domestic affairs, would you recommend that instead of having different forums there should be one matrimonial court consisting of a Magistrate and two non-officials and all cases after a preliminary enquiry by the Magistrate should be transferred to it so that all false and vexatious cases might be eliminated?

A. The idea of a matrimonial court is new and like the Juvenile Courts it is tempting. But I want time to look into it more critically. What sort of these officials and non-officials should be will have to be considered. The idea, if I may be permitted to say, seems to be a good one.

Q. The trouble in these marital cases is that whether the husband might be prosecuted or the parents might be punished it is the wife who always suffers.

A. Yes, that is the most miserable part of the affair. We must educate the people because it is the parents who are responsible for bringing about such circumstances.

Q. Would you recommend in view of these facts that the case might be allowed to be compounded with the sanction of the court?

A. These are matters of public interest. On the one hand it is necessary in the interests of the public that in some of these cases punishment should be given and on the other hand there is the poor girl who suffers. If there is a matrimonial court I think this power may be safely left in its hands.

Q. Would you recommend that there should be a system of registration of marriages not for the purpose of constituting the marriage but simply

for the purpose of recording all marriages with the ages of the marrying parties?

A. The courts always find it difficult to find out the exact age. The present system of registration according to the municipal law is ineffectual and when a case is brought up the prosecution because of the difficulty of finding out the exact age is likely to break down even in satisfactory cases. So that some method of finding the correct ages of boys and girls must be devised.

Q. Can you suggest any measures for making that system more satisfactory, more efficient?

A. I am not an executive officer but my present idea is that it works rather satisfactorily in municipal areas but in the outside stations it works most unsatisfactorily.

Q. You want that the satisfactory portion of this should be extended to the mofussil also?

A. Yes.

Q. Do you think that the District Boards will take up this question of registration of births and marriages?

A. Probably something will have to be done under the control of the matrimonial court you suggest. The District Boards do not bestow attention that it deserves.

Q. Nor do you think that the revenue authorities will be able to do the work satisfactorily?

A. The revenue authorities are now doing that work in the rural areas in a slipshod manner.

Q. You don't think it will be wise to leave it in the hands of the revenue authorities.

A. That is my idea.

Q. Now I come back to my original question. If we have a legislation fixing the minimum age of marriage and fixing an age for consummation don't you think that it would be desirable to have reports of all marriages made to a prescribed authority giving the names of the marrying party, so that a register might be kept of all marriages and used in case of need?

A. If any other method by which the ages could be determined could be found out I would like to have that.

Q. You think that the system of registration of marriages is likely to be not acceptable to the people.

A. There must be some method by which the ages should be properly recorded and I would like to have a system other than the registration of marriages, if possible.

Q. The number of marriages is much fewer than the number of births and the difficulty of tracing the age from the birth register is so much that it has been suggested that it would be advisable to have a system of registration of marriages, i.e., every marriage being reported to a prescribed authority.

A. The maintenance of a proper birth register coupled with the fact that education is progressing and taking some care about the girls and boys giving their ages to the school authorities when they are admitted into the schools, would, I think, be sufficient for ordinary purposes.

Q. But the people will not be able to know in what manner and at what age the marriage has taken place and those who want to see the law observed will have no source of information. If this register is maintained information will be readily available.

A. A copy of the birth register is available.

Q. But the girl may be born in Calcutta and the marriage may take place here in Madras. If all marriages are registered at the place where they are celebrated it will be easier to trace the age. Is there any real difficulty in carrying out this suggestion?

A. Except that there may be sentimental objection I cannot just now think of any other difficulty. For my part I have no objection but if we can find some other ways of having evidence I would like to have that instead of this registration.

Q. The only difficulty that you expect is that there may be sentimental objection and nothing more?

A. That is my idea.

Mr. Kadri: What is the age at which a girl in India can give intelligent consent?

A. 16.

Q. You fix the age for extra-marital cases at 16.

A. Yes.

Q. The age of majority is at present 18. Would you be satisfied if we fix the age at 16? Don't you think that when a girl is considered incompetent for entering into any sort of civil contract, it would not be proper for her to be considered competent to give consent for co-habitation with strangers?

A. I was reading what the English law is and I found that in the case of boys the age is fixed at 14 and in the case of girls at 12.

Chairman: But their practice is different. No girl of 12 is ever married.

A. I have a cutting from a newspaper which shows that there was one girl of 12½ married, 2 girls of 14 married and 66 girls of 18 married.

Mr. Kadri: So that for extra-marital relations you would have 16 only.

A. The Legislature has been making a difference of one year in the case of marital and extra-marital cases. I was not bold enough to make it more than 2 years.

Q. Whom are you thinking of protecting in the case of extra-marital cases?

A. Of course the girl.

Q. You know the accused in this case is the stranger, and do you think he is entitled to any protection at our hands, any leniency at our hands? Is it not regarded as a heinous offence? Don't they consider it to be immoral?

A. They do. If you fix 14 for marital cases to fix 16 in the case of extra-marital cases would probably be going too far.

Q. The society would consider it immoral and nor is the girl going to support the stranger in such a case, why do you think it is going too far?

A. It is all a matter of advance. In theory it should be 18. No person who is not a major can enter into any contract and the age of majority is 18. But in matters like these you should not go by that. Even in England they have not gone by that.

Mr. Shah Nawaz: At what age girls in your part of the country arrive at the age of puberty?

A. Between 12 and 14.

Q. You want to fix the age of marriage between 11 and 12.

A. Yes.

Q. You mean to say you are still for pre-puberty marriages. You want to pacify the feelings of the Brahmmins, is that the reason?

A. Yes.

Q. What is your personal view?

A. I do not want to move in these matters in front of my brothers and walk alone leaving all others behind. In this sort of legislation I would like to bring them with me rather than go myself in front.

Q. Don't you think that the non-Brahmins in this country generally would accept an advanced age of 14 for marriage?

A. I am sorry I cannot speak for them. I am not prepared to say anything for them. What I am going to say will carry weight and I don't want to say anything for the non-Brahmins.

Q. The Brahmins are a very small minority in this country. Don't you think it is a fact?

A. They are a minority.

Q. If the Brahmins' views are in conflict with the non-Brahmin view with regard to this point.....

A. I am not prepared to say anything for the non-Brahmins.

Q. May I understand that marital cases are not brought to light generally?

A. My idea is that there are possibly cases which are not brought to light.

Q. The present law is ineffective.

A. Not ineffectual. The present law has been able to model the feelings and wishes of the people in the formation of good ideas.

Q. The cases occur but they are not brought to light.

A. There are possibly cases but no complaint is made.

Q. That is the cases are not brought to light. Why do you think then that penal legislation fixing a higher Age of Consent for marital offences is likely to be more effective than legislation fixing the minimum age of marriage? You say so in answer to Question No. 20.

A. The reason is that education has not advanced to such an extent that people will be willing to raise the age beyond 14. With the advance in education I would like to make a further advance in law also. I would leave it to education to assist us in bringing the cases where the law is contravened to light.

Q. To bring the opinion of the Brahmins in line with the law, I should say.

A. I am only speaking for the Brahmins.

Q. You are of opinion that we must proceed gradually. You want another Committee to sit after a few years.

A. Whether it should be by means of a Committee or any other method is not a matter for me to mention. I am surely for proceeding gradually.

Mr. Mudaliyar: Is it a fact that it is not an obligatory matter with any class of non-Brahmins to celebrate pre-puberty marriages and pre-puberty marriage is not looked upon in the same light even by those who are regarded as high caste as the Brahmins look at it?

A. That is my idea.

Q. While one girl in a particular family may be married before puberty, in the same family, can you come across instances where the girl has been married after puberty?

A. I have not much experience of that personally. I don't want to talk about non-Brahmins.

Q. You have said you won't like to advance further than the general mass of the community to which you belong. You have said that in marital case the age may be fixed at 14. May I take it, if you fix the age at 14, general mass of your community will be with you?

A. We have been able to persuade them. During my vacation and during my profession people have been coming to me and I have talked to them regarding this matter. I think they should submit to this age being raised to 14, not that the people are quite agreed in this matter.

Q. If the Committee were to accept your suggestion and fix the age at 14 in marital cases the charge of flouting orthodox opinion could not justifiably be brought against it.

A. That is my idea.

Q. With reference to punishment you have said that it should be limited only to fine. Is it your idea that after 12 the present law should be modified so as to have only fine as the punishment?

A. Yes.

Q. In many of these cases the husband will be a boy. So that the fine would really be a penalty on the parents.

A. Yes.

Q. If that is the case, don't you think that it is unfair to the parents?

A. They bring about such marriages in most cases and I think they must suffer.

Q. A suggestion has been made that the right of complaint may be given to social reform associations and you are not agreeable to that.

A. What I wanted to say was that advantage should be taken of all sources of information and these associations should not be an exclusive source.

Q. I want to distinguish between the source of information and the right of complaint.

A. Anybody has got a right of complaint. They should also have that right, not that they must be given any better right than anybody else.

Q. Is there a feeling among those classes who have consummation performed soon after puberty that they do so because of the terrorism of public opinion and incapacity to flout public opinion which wants consummation to take place as soon as the first signs of puberty appear? Is it a question of public opinion rather than reliance upon shastric injunctions?

A. My submission is, that in this matter as in any other matter the shastric injunctions are not observed. Communal opinion has taken the place of shastric injunctions.

Q. In the case of those people will this legislation not be a help? Will it not strengthen the hands of the people who by the threat of public opinion are constrained to observe pre-puberty marriages?

A. There would be another split. There are already thousand and one castes and there would be one more. Legislation according to my submission would not really help those people.

Q. Would legislation not be a convenient cloak for those who are otherwise not prepared to go against what they consider to be public opinion?

A. It may help them, but I will rather think that it is better to follow the general opinion of the people.

Q. Supposing we fix the age by legislation at 15 and attach a penalty to the violation of that law, do you think that there will be many conscious violations of the law when there are the attendant risks?

A. As things now stand, my idea is that unless people are further educated they would be tempted to break the law.

Q. They might break it with the idea that they would not be convicted, but would they break it and risk the consequences? Would the objection to the legislation be so great as to make them break it openly?

A. This is a question of quantum which might be left for discussion.

Q. You surely recognise that the feeling against post-puberty marriage is very much greater than with reference to the Age of Consent. People would in the case of marriage break the law and take the risk. But if we fix the Age of Consent at 15 do you think that there will be a number of people who will violate the law?

A. That is my conviction.

Q. Will they openly violate it?

A. At any rate for the near future.

Q. Would a similar contingency arise if the age were fixed at 14?

A. Not so much.

Mrs. Nehru: What are your reasons for saying that you would avoid the strengthening of the penal law to secure the object of preventing child marriages?

A. Things are moving in the right direction. These are essentially matters that must be left to the community. That being so, and as I have said, people are moving in the right direction, legislative interference should if possible be restricted to as minimum a point as possible. If it is thought that legislation is necessary I am prepared to adopt 14 in the case of marital relations and 16 in the case of extra-marital relations.

Q. Why do you fix the age at 14. I suppose you agree that according to medical authorities 14 is not the safe age for motherhood. What reason have you to think that people will not agree to more than 14?

A. Because I see their pulse. I am one of them.

Q. Have they held any meetings expressing their views?

A. There have been so many meetings and so many opinions. In papers by both sections, orthodox as well as unorthodox.

Q. Which section, do you think, is greater?

A. I think the orthodox section forms a larger majority.

Q. Do you think there will be opposition in the case of extra-marital cases also if the age is raised to more than 16?

A. I can't answer that question with more definiteness. My knowledge as regards extra-marital cases is not so very exact as with reference to these marital matters. Having regard to the fact that the Legislature has been making a difference of one year I have suggested two, i.e., one year more, for the time being. I can't answer that more definitely.

**Written Statement, dated the 30th August 1928, of Dewan Bahadur
T. R. RAMACHANDRA IYER, Advocate, Madras.**

1. I am not aware of any dissatisfaction with the state of the Law as contained in Sections 375 and 376 of the Indian Penal Code.

2. The absence of dissatisfaction is a ground for retaining the law as it is. Making an advance in the present law seems to be unnecessary and will create dissatisfaction.

3. Crimes of seduction and rape are very rare in our part of the country. So far as I am aware the amendment of the law made in 1925, raising the Age of Consent to 14 years has not had any effect in preventing or reducing cases of rape outside the marital state or the improper seduction of girls for immoral purposes as such cases were exceedingly rare even then. No measures seem to be necessary to make the law effective in this part of the country.

4. As a rule the consummation of marriage takes place in this part of the country only after the girl is 13 or 14 years of age. Girls seldom attain puberty before they are 13 and some time does elapse generally even a year after the girl attains her puberty before the consummation takes place. It is not on account of the law that the consummation takes place after they are 13 or 14 but because the girls attain puberty in most cases after they are 12 and even as a matter of convenience consummation takes place generally six months or a year after the girl attains puberty. I may also point out that in the generality of cases marriage does not take place before the girls are 12 and in several cases the marriage takes place after they are 13 or 14. The number of girls married after 13 or 14 is steadily increasing. I may also say there are several cases of marriage after puberty even among Brahmins although the fact of their having attained puberty is not always revealed. Marriage of girls is a very costly matter with the parents and in the majority of cases where the parents are poor the marriage is postponed to a late age on account of the difficulty to find

funds for the bridegroom who always insist on payment. This is true of Brahmmins in this part of the country. Among the non-Brahmins marriage after puberty is the rule. Among the well-to-do classes the tendency is to marry the girls after they are 12 as the feeling is steadily growing that the risk of widowhood is to some extent avoided by marrying girls when they are about to attain puberty.

5. Girls attain puberty generally in this part of the country in all classes when they are 13 or 14. The cases where girls attain puberty before they are 13 are very rare.

6. My answer to Question No. 6 is no. I have not come across any case where consummation has taken place before the girl is 13.

7. Consummation before puberty is unheard of. The religious injunction is very strong against consummation before a girl attains puberty. I would condemn such consummation as barbarous and against the spirit and letter of the Hindu Religion. Consummation takes place invariably after the girl attains puberty and in the majority of cases a year after puberty.

8. Garbadhanam ceremony is usually performed among Brahmmins in this part of the country. It coincides with the consummation of marriage. It is performed always after the attainment of puberty and after the lapse of six months or a year. In rare cases it is performed soon after the girl attains puberty.

9. I do consider the attainment of puberty is a sufficient indication of physical maturity to justify consummation of marriage except in cases in which the girl is sickly or infirm. In such cases consummation is always postponed.

10. In this part of the country a girl who is 14 is competent to give an intelligent consent to co-habitation with due realisation of consequences. According to Hindu Law the minority of a person male or female terminates at the beginning of the age of 16. There is also an opinion that it terminates at the end of 16. I mention this fact only for the purpose of showing that at the age of 14 a girl is sufficiently developed physically and intellectually so as to enable her to give consent.

11. I have come across no case as described in this question.

12. I don't know what is meant by early consummation and early maturity in this question. Consummation before puberty is always objectionable and the result is disastrous. Maternity before the girl attains 13 ought to be avoided also.

13. High maternal and infantile mortality wherever it exists is in my humble opinion due to the extreme poverty of the people and their ignorance of the laws of hygiene and sanitation. By remedying these evils we shall be able to reduce the high mortality.

14. As already stated there is no necessity for increasing the age of consent in marital and extra-marital relations. Women in our part of the country favour the consummation after they are 14 or 15. If that is early consummation they are in favour of it.

15. I have known no case as stated in Question 15.

16. This requires no answer.

17. Extra-marital and marital offences do require differentiation. The former deserve severe punishment and the latter must be very leniently dealt with by inflicting fines only.

18. I have no answer to give to question 18.

19. I have no answer to give for this question.

20. In my opinion penal legislation fixing a higher Age of Consent for marital relations is unnecessary. Legislation fixing a minimum Age of Consent is also unnecessary in this part of the country. Fixing a minimum age of marriage is altogether unwelcome in this part of the country. Postponing the consummation may not be so serious a grievance.

21. I am against legislation of any sort. The progress of social reform by means of social propaganda and education is certainly welcome and is in consonance with public opinion.

**Oral Evidence of Dewan Bahadur T. R. RAMACHANDRA IYER,
Advocate, Madras.**

(Madras, 17th November 1928.)

Chairman: How long have you been practising?

A. I was enrolled in 1885. I was a judge for 8 or 9 years after 1892. I have been connected with law for nearly 45 years.

Q. You were a High Court Judge.

A. I was a Judge in the Cochin State.

Q. You have said in answer to Question No. 1, I am not aware of any dissatisfaction with the state of the law as contained in Sections 375 and 376 I. P. C. Have you heard of the women's meetings here in Madras and at other places where demands for a higher Age of Consent were made?

A. After this enquiry was started there have been meetings both ways, for and against. Before the enquiry I have not heard of any meetings.

Q. Was not any resolution passed at Delhi, for instance at the Women's Conference? Sarada's and Gour's Bills have been before the country for three or four years. Have you not known of any meetings of ladies supporting a higher age for consent and fixing the minimum age of marriage?

A. From that date there have been meetings. They have been both ways.

Q. Are you aware of any case in which consummation of marriage takes place now, in your community or any other community, before a girl completes her 13th year?

A. I am not aware of any case.

Q. I understand that you want only social propaganda to achieve the object and you think legislation of any sort is unnecessary.

A. Because nobody will object to social propaganda but interference by means of legislation is very much resented, because I say the King has no right to interfere with the religion of the people.

Q. Are you connected with any social reform movement?

A. No.

Q. Have you done any propaganda yourself?

A. I have done no propaganda work in the sense of making speeches on the platform, that is done now-a-days generally. I have done work in my own humble way. We meet so many people on the occasion of some marriage, a large number of people assemble when a wedding takes place, and then there are so many vakils in the court who meet daily. On all these occasions an opportunity is given to do the propaganda work. We talk and discuss.

Q. But have you ever discussed it with the object of bringing about a change?

A. I have said no change is needed at all.

Q. Are you satisfied with the condition of affairs now prevailing, that a girl may be a mother before she is 13, 14 or 15?

A. I don't think there is anything wrong in that.

Q. Are you aware of any cases in which girl mothers of 13, 14 or 15 have suffered in their health or their babies have suffered?

A. Cases there may have been, but not on account of the age being low. I know of no such case. On the other hand difficulty arises if the pregnancy happens after 18 or 19. Such cases I have known.

Q. Could you cite some cases to us?

A. I have not kept any statistics. I have heard of cases and read in books.

Q. Have you heard of no labour trouble below 16?

A. There is labour trouble in many cases both below and above 16.

Q. You are not prepared to admit that child marriage and consummation of marriage below 15 is one of the reasons why girls are weak and their babies suffer?

A. No. If they are weak and I know several cases where they are weak it is on account of poverty. I know of several cases where consummation has taken place below 15 and they are in excellent health.

Q. So far as the pleader class is concerned, it is a well-to-do class. Have you known of any cases of consummation before 15 where the mothers have suffered or the children have suffered or died?

A. Cases there may have been, but I say it is not to be attributed to age.

Q. Do you think girls below 13 years of age require no protection?

A. If you say before they attain puberty, I would say they require protection. Consummation before puberty is absurd, is barbarous.

Q. A girl attains puberty at 11 or 12 and she can be a mother at 13.

A. I don't know whether any protection is required. I know of instances where the mother is alive and the children are alive. Legislation if possible should be avoided. There may be exceptional cases and no legislation is needed for exceptional cases.

Q. Why should you avoid legislation?

A. As a matter of fact very few cases occur. Girls generally attain puberty between 13 and 14 and in very rare cases it comes at 12 and I don't know whether anybody will think of legislation of exceptional cases.

Q. Are you prepared to modify your opinion about the marriageable age of girls if I tell you that medical opinion is that before 16 years are complete a girl is not fit for safe motherhood and nor is it safe for her children?

A. If that is the medical opinion I do not have much regard for it. My experience is otherwise and I will give you a reason also. In the case of Brahmans, so far as I know from time immemorial, for the past thousand years, marriages have continued to take place before puberty and consummation after puberty and the Brahmin community is physically, morally, intellectually and spiritually as good, if not better, as any other community. If that is the medical opinion it is impossible to explain this fact.

Q. Supposing a law was enacted raising the Age of Consent or fixing the marriageable age would you like the Brahmin community of Madras to be exempted from the operation of that Act?

A. Certainly. And other communities do not require legislation, they can marry after puberty.

Q. That they do marry below puberty is also a fact. Even some non-Brahmins marry before puberty. Do they not?

A. Yes.

Chairman: You are therefore of opinion that there is no harm in marrying a girl below 15 and getting her to be a mother?

A. You have put it very correctly.

Q. Would you like the present law to be abolished?

A. I don't care whether it is there or not. No body has thought of it. I don't think that the law is operative on any person. It is only a dead letter. People perform consummation after 14 and 15. The parents and relations have some regard for the welfare of their children than the Government.

Q. Would you allow the law to remain as it is?

A. I have no objection to its remaining as it is or if it is made worse.

Q. Do you think that amongst the Brahmin community the laws of hygiene and sanitation are well-known?

A. There are certain people in the villages who may not know it.

Q. I am talking of the cities?

A. In cities too there are very many poor people who do not know the laws of sanitation.

Q. At least the educated pleader class is expected to know the laws.

A. This is not taught in colleges but they must pick it up. There is plenty of poverty even amongst the pleaders. It is a struggle for existence.

Q. Is the majority of pleaders poor?

A. Very many of them are poor in the sense that they suffer from poverty.

Q. Amongst the pleader class are most of them Brahmins?

A. Yes.

Q. Amongst these people, don't you find girl mothers?

A. No.

Mr. Kanhaiya Lal: Do you think that there has been a physical deterioration of the people during the last 50 years?

A. At least amongst the Brahmins it is not so.

Q. Are the people stronger now than they were before?

A. I think they are just about the same thing.

Q. Is the new generation equally strong as the old one?

A. I don't think any noticeable change. That is all I can say.

Q. You have suggested you have gone on medical opinion. May I know what it is?

A. I won't say that. Of course medical opinion is entitled to be respected but where such opinion is opposed to facts, I would oppose such medical opinion.

Q. May I tell you that you are further aware of widely known authorities including the Ayurvedic authority which say that a girl is not fit for maternity till she attains the age of 15 years?

A. I have't read the authorities. If it is supposed to smritis I won't attach any importance to Ayurveda. We have also our religion to observe. You cannot disregard our religion for the sake of physical improvement.

Q. If the experience of these witnesses is that one of the causes why these girl mothers die is early consummation and early maternity, would that affect your opinion in any way?

A. I say it is wrong. In my own family there are girls of 13 and 14 who never suffer.

Q. Would you be surprised if we are told that in India about 20 per cent. of the children born die within the age of one year?

A. That may be true but we don't place much reliance on statistics. For the sake of argument if you want I would agree.

Q. Would you be surprised if we are told by persons in charge of maternity hospitals that the girls at the age of 13, 14 and 15 have given birth to babies and they are below the normal weight say 4 and 4½ lbs. whereas the normal weight is 5 and 6 lbs.?

A. They may be perfectly right as regards that but that does not affect my answer at all.

Q. Would you not attribute it to early consummation?

A. It is due to poverty.

Q. Is early consummation and early maternity one of the contributory causes for the fall in the normal weight of the baby?

A. In the case of persons who are weak on account of poverty, that will certainly be so, but in other cases they won't be so.

Q. I should like to tell you that the statistics tell us that the deaths of females between the ages of 10 and 15 and 15 and 20 are about 15 per cent. higher than the deaths of boys of the same age. Would you suggest any reason for that?

A. In the case of boys they get plenty of fresh air and do exercise whereas in a city like this 20 families live in one house, they never get air and they even don't get milk for their children. Want of proper feeding and want of sufficient air, etc., are the chief things.

Q. According to medical opinion there is no proper ossification of the pelvis bone till the girl attains the age of 18 years or above and in consequence of the shortness of these bones, young mothers are liable to various different diseases and they sometimes become sterile. Would that affect your opinion one way or the other?

A. I know of so many young mothers who are in excellent health.

Q. What is the percentage?

A. I have nothing to do with preparing any statistics. I am telling you of my own experience. I have a number of relations and I have seen a lot of people who are in excellent health.

Q. What is the percentage?

A. I cannot give you any percentage.

Q. Would you recommend that there should be a certain period which should elapse between the age of puberty and the age of consummation?

A. Not necessarily.

Q. In the interests of the mother and the progeny don't you think it is necessary?

A. I don't think it affects either the progeny or the mother.

Mr. *Shah Nawaz*: I want to know whether you are speaking on behalf of the Brahmmins only or on behalf of the Hindu community of this presidency?

A. I am speaking on behalf of all but I know more of Brahmmins than others.

Q. Do you know the non-Brahmin opinion in respect of the fixing of the age of marriage and also in respect of the raising of the age of consent?

A. With regard to the non-Brahmins excepting the Komutti class all others can marry after puberty and I may say that there is a lot of mortality among those who marry after puberty more than amongst the Brahmmins who do pre-puberty marriage.

Q. Why do you want the Brahmmins girls to marry before they arrive at the age of puberty?

A. Because the Shastras say that we should so marry and if we do not so marry we do not become complete Brahmmins.

Q. That you restrict to the Brahmmins only?

A. So far as the smritis are concerned, they are restricted to Brahmmins only.

Q. Can you cite these Shastras?

A. There is Manu Smriti, Manu says "in the case of a Brahmin in order that he may be a perfect Brahmin he must be born to Brahmin parents. Secondly, he must be born to parents who have been properly married, i.e., the mother must have been married before puberty because if the marriage takes after puberty she ceases to be a Brahmin so that the child born out of that wedlock is a child that is not a Brahmin child so that you stand to lose your caste."

Q. Then there is a difference in law for the non-Brahmin and the Brahmin.

A. All the Smritis say so.

Q. You want to keep up your superior position. Is that not so?

A. I don't claim any superiority for that.

Q. Why then does a Brahmin want to marry his girl before the age of puberty?

A. He wants to marry his girl before the age of puberty in order that he may become a complete Brahmin in divine and spiritual superiority, in any way. But in the case of non-Brahmins who marry after puberty they don't lose anything but we do lose. We the Brahmins are more concerned with spiritualism than anything else. You think of material improvement in this world. That is not so with Brahmins.

Q. I want to know frankly for reason or no reason would you depend on your religion for the guidance?

A. My religion is absolutely reasonable. It is perfectly rational.

Q. The injunction that you have given to us, is it mandatory so far as the Brahmins are concerned?

A. Not mandatory. If you want you needn't become a good Brahmin. In fact the Hindu religion doesn't say that you ought not to become an out-caste. As far as I am concerned I attach the greatest importance to spiritualism.

Q. You say in your reply that as a rule marriages are consummated a year after puberty. Is that against the injunction of the Shastras?

A. To some extent it is.

Q. Are you not the sinner to that extent?

A. Certainly so. I admit.

Q. Is it the Shastric injunction that the marriages should be consummated 16 days after puberty?

A. Before the next menses if possible.

Q. Then the majority of the Brahmins have followed that rule.

A. Yes.

Q. If the girl is 15 they won't wait for one year?

A. It is not a question of age at all according to Shastras. But the parents break the rule. That is what I say.

Q. Do the Shastras say that if you don't consummate with your wife 16 days after beginning of first menses it would be a Brahmin murder?

A. Yes: it would be 'brunahatia'.

Q. I suppose many of the Brahmins do commit that?

A. Yes.

Q. What would be the penalty according to Shastras for this?

A. The punishment will be you will cease to be an orthodox Brahmin.

Q. Then do you differentiate between a Brahmin and a non-Brahmin?

A. There is a difference always.

Q. Does he cease to be a Hindu?

A. He doesn't cease to be a Brahmin. Anyway, I say he is not a first rate Brahmin.

Mrs. Nehru: Are there any Brahmin girls who go in for high education?

A. I think there are some.

Q. Do you think they are wrong in going for higher education and not knowing anything about their own religion?

A. Before knowing anything about their religion if they are given English education, I think it is wrong.

Q. Is it at all desirable that they should have the knowledge of their own religion and also that of the present day sciences?

A. There is no harm.

Q. Don't you think that they should be given time to acquire that knowledge?

A. Not necessarily in colleges.

Q. Even at homes if the girls are married early, they won't have time to study.

A. There is plenty of time.

Q. Do you think it is possible for them to look after the children as well as study?

A. Let them give up childbearing if they find it troublesome. That is a feeling which is coming over now. So many of the modern women think that childbearing is a great trouble.

Q. After all if they want to acquire religious as well as secular knowledge are they not within their rights?

A. Religious knowledge and secular knowledge they can acquire by getting themselves married. In fact what we do is this. There are puranas and other things read in a common place where women largely attend and there they can acquire a knowledge of these. For this there is plenty of time.

Q. I thought the period of Brahmacharinya was also necessary for girls to acquire knowledge as it was for boys?

A. I have carefully read Shastras, also Puranas and Smritis. Different duties are prescribed for man and woman and they are not the same duties. Therefore a family woman has to learn things and do things in a way different from man in order that she is expected to serve her husband. The husband is her guru. She must always be by his side. For every karma she must be by his side.

Q. But what happens if she unfortunately loses her husband?

A. She can acquire knowledge after that also. In fact the life of a widowhood is considered to be sacred. They are not a degraded class at all. Our view is that a widow is a sacred woman because she observes celibacy and the highest place is vouchsafed to her in heaven.

Q. Are there any instances in the Shastras where girls have chosen their own paths in life?

A. There were very few and these might have chosen with the permission of their husbands. They would not go against their husbands' will.

Q. I want to know from you whether there were any women who chose to live unmarried for the sake of realising their own self.

A. I know of no instance. In fact as far as women are concerned they are expected to marry and they must marry.

Chairman: Is it made incumbent by the Smritis that every Brahman should study the Vedas and remain unmarried for 24 years?

A. It doesn't say 24 years. What the Smriti says is that a man ought to study the Vedas and until he completes it he has to remain unmarried. In fact there are four Vedas, which take 48 years. In fact all that is gone now. It is only one Veda you can learn before 12 or 16 years.

Q. Are we permitted by Smritis to learn English and foreign languages?

A. I don't think there is any objection.

Q. Is there to your own knowledge any provision in Smritis that a 24 years' man should marry a girl of 8 and a man of 30 should marry a girl of 12?

A. There are some provisions.

Q. Is that followed in practice?

A. No.

Q. Is there any authority in Manu for a lesser age than 24 for men?

A. Yes; there is. In fact it is only the other day I was reading Gautama Dharma Sutra. I think it is in accordance with Manu. What it says is 48 but it says at the same time he can marry only when he has completed his studies.

Q. What is the usual time for a man to study the Vedas?

A. Until he completes and it is 36.

Q. Can you not give me any authority from Manu for this purpose?

A. No: I don't think.

Q. Does Manu lay down that if a girl is not married by the father, she can herself choose her husband after waiting for three years after puberty?

A. She ought to go to the King and the King should get her married. It is the duty of the King. But Manu is not the sole authority.

Q. Are there no authorities in other Smritis also?

A. There may be. Of course in fact if a girl is allowed to attain puberty what is he to do? That is apath-kalpa.

Q. It is not apath-kalpa. If the father does not give her within three years, then she is entitled to marry herself although she has attained menses.

A. That is because the girl is expected to marry before puberty and she has not been allowed to do so by her parents.

Q. It is not a question of allowing but it is a question of not doing.

A. I say that is an utter neglect of duty.

Q. Is there a prayaschitam for this, for a girl who has attained menses and married late?

A. Yes: there is. But prayaschitam doesn't mean that the marriage becomes all right now. It will ensure no punishment.

Q. But the sin is expiated.

A. The Prayaschitam does expiate the sin for the purpose of securing a proper place in the heavens but not entitle her to social intercourse.

Q. Do you know what the proceeding for this is for a girl having menses and not married?

A. I don't know.

Q. Would you take it from me that it is Shatam Pranayam?

A. May be.

Written Statement, dated the 7th August 1928, of Mr. N. SRINIVASA ACHARYA, B.A., B.L., Advocate, Vice-President of the All-India Brahmana Mahasabha, Madras.

1. On account of the universal commotion raised by Mr. Haribilas Sarda's "Child Marriage Bill", especially as it has emerged from the Select Committee, the opposition against the "Age of Consent Bill" is not likely to be of any great magnitude. However, a measure of social legislation which is not warranted by any serious necessity of public safety or interest, in a country like India containing people of varying and conflicting creeds and races will certainly be resented, at any rate, as setting a bad precedent; and submission to it will be only through coercion. No case has been made out as to why the law set at rest so recently as 1925 by the legislature should be re-opened so soon. We are not even behind the English Law in this matter. No dissatisfaction has been expressed in any quarter regarding the present state of the law (Question 1). The so-called "public opinion" in favour of the extension of the Age of Consent is mainly those of people engaged in mere academic discussion of social reform (Question 13). In my opinion, it may remain as it is (Question 2) and it furnishes all the securities that penal law may reasonably provide (Question 21) and for further "progress" the reformer should be left only to "education and propaganda". But if the legislature must interfere at any cost, the raising of the Age of Consent will be more in consonance with the opinion of the people and submitted to, rather than invalidating or penalising

marriages (betrothals) below a certain age for girls (Question 20). For the latter is admittedly against the *Sastra* injunctions in practice for some thousands of years, requiring the giving away of the girl before puberty.

2. Crimes of seduction and rape are very rare in this Presidency. There has been no case of rape by husband. (Question 3). The amendment made in 1925 did not matter much either way. Marriages before twelve are becoming exceedingly difficult for various reasons and no legal interference of any sort is needed. (Question 4).

3. The raising of the Age of Consent outside the marital state to 16, may not meet with any opposition. For one thing, if a minor cannot bind herself by a promissory note, it stands to reason that her incapacity is greater in respect of the consequences of illicit intercourse without the safeguards of marital responsibility in the man. (*Cf.* Sec. 301 I. P. C.).

Moreover, this will serve to solve the question of dedication of *Devadasis* to temples over which the social reformer raises disproportionate hue and cry. It is a sacrilegious libel to say that such dedication amounts to giving license to prostitution; and it is cruel to deprive the *Devadasi*s of their services and emoluments to temples under any pretext whatsoever. If intercourse with a *Devadasi* girl below 16 is made *ape*, her dedication for temple service at any age need not scare anybody!

4. Girls ordinarily attain puberty between 12 and 15, those given to physical work attaining later than those brought up in comparative ease and luxury (Question 5). There is not much difference in this matter in different communities. I have not heard of cohabitation before puberty. Some cases of cohabitation *soon after* puberty have occurred; but they have been more or less formal celebrations of nuptials in order that the girl may be taken to the husband's house. There have been also cases of consummation before thirteen, where the girl had attained puberty earlier; but even they have not been many. No such cases, to my knowledge, have occurred after the Act of 1925 (Question 6). The normal age of nuptials of girls among Brahmanas is about 15 or 16 (very much higher now-a-days) and among non-Brahmanas who invariably marry their girls after puberty, this point does not arise at all.

As a matter of fact an interval of about two years ordinarily passes between maturity and consummation of the girl and she goes to live with the husband only after that. Various religious causes such as the performance of the *Sthalpaka* (without which, the child born is like a *Sodra-Brihad Aranyaka Upanishad Chapter VIII Br. 3*) and the observance of *Diksha* (celebracy) for a year in the event of a parent's death, obliges an orthodox Brahmana to postpone nuptials. Other causes, secular as well, prevail with many.

Sage *Sastrya* in his *Lawcode* warns against *forbidden* (inpregnation) "before the wife is sixteen and the husband has reached 25". The religious duty being the discharge of debt to the Pitris (ancestors) by bringing forth healthy and pure progeny, the injunction of *Sastrya* must be binding.

5. There is no religious injunction that consummation should take place before a certain age or period. (Question 7). Early consummation, where found, is due to other causes, including the disobedience of the "educated" to the injunctions of the *Sastras*! No penal law would deter such people! Texts like,

"Reprehensible is the father who does not give (the daughter) in time; reprehensible is the husband who does not approach (the wife) in time" (Manu IX, 4):

"He who does not approach his wife who is with him during the *ritu* (the approved days within the 16 after the menses) commits the most fearful sin of destroying the foetus" (Parasara); and similar ones of Bodhayana and Devala, construed with their contexts and the other *sastras*, obviously have reference only to the failure in the discharge of matrimonial duties by the husband; and they do not require consummation at the very first

appearance of the menses. To interpret them thus is to go counter to many other sastraic injunctions.

6. *Garbhadana* or *Nishika* is the first Samskara (sacrament) with which a Brahmana seed is sown in the purified womb with Mantras (Manu II, 18). It is prescribed in the Veda itself (Taittiriya Brahmana) and the Grihya Sutras of Apastamba, etc. The South Indian Brahmanas to this day perform it (Question 8) and it is the consummation or nuptials celebration. As stated before this takes place generally about two years after puberty.

7. Regarding (Question 9) my experience is that child birth is best borne between 16 and 20 by girls. Confinements after 20 or 25 for the first time have proved very difficult and taxing. Those before 16 have not been altogether serious. But I am not prepared to say that the mere attainment of puberty is a sufficient indication of fitness for consummation. On the whole, the custom prevailing with us has been good enough, abnormal cases which could not be avoided being excepted. Girls do understand the consequences of consummation by about 13 or 14 (Question 10) for they are too familiar with girls bearing children. It is easy either to exaggerate or minimise this point. I have seen more deterioration and suffering by the frequency of pregnancies rather than early pregnancy. But it is certainly better to avoid both, to prevent maternal and infantile mortality (Questions 11 and 12) though these do not constitute all the causes.

Women do want to celebrate the consummation of girls after a reasonable time, as indicated above, after puberty, in the interest of their future welfare (Question 13). The cynical report drawn by critics like Miss Mayo is opposed to fact.

8. Regarding questions 17 and 18, I now state as follows. The penal section punishing the husband for rape on his wife has hitherto remained a dead letter and an appendage of no consequence to the Penal Code, but with much potentiality for evil, like the vernacular appendix to the Indian intestines, for connection with a wife below twelve has been practically *nil*. Now the age limit is thirteen. To raise it further, would give full opportunity for the free play of the potent evils and no amount of protection afforded against improper prosecution or extortion (Question 19) would compensate for the humiliation, troubles, loss of status in society, domestic unhappiness, etc., consequent upon sending a man to gaol for cohabiting or attempting to cohabit with his lawful wedded wife! The very wife's misers would multiply, especially in view of the status of women under the Hindu law and the cherished notion of Hindu homes.

As stated already cases of consummation within marriage below 11 are too rare for the legislature to interfere in the interests of the society even at the risk of inquisitorial and nasty proceedings to determine the age (Questions 15 and 16) with ingenious devices to secure proper evidence thereof.

Natural causes are vigorously working to bring about the desired results; and if only "reformers" mean "education and propaganda" on right lines, especially among our youths, I think the law may rest where it is, for many a long year to come.

9. I shall be glad to be examined orally by your Committee if they so desire.

Oral Evidence of Mr. N. SRINIVASA ACHARYA, Vice-President of the All-India Brahmana Mahasabha, Vepery, Madras.

(Madras, 19th November 1928.)

Chairman: How long have you been an advocate at the Bar?

A. For 27 years.

Q. Since when have you been connected with the Sabha?

A. Since its very formation in 1925.

Q. What is the membership of the Sabha?

A. Its actual membership is many, but the working members are about 180 or so. We have only nominal subscriptions and nominal membership.

Q. Does the Sabha consist of all class of Brahmins?

A. Yes; it consists of Vaishnavaites, Saivites and Madhwa Brahmins. The President, Mr. Ramachandra Iyer is a Smartha, and the Secretary, Mr. Subha Rao, is a Madhwa. I am myself a Vaishnavite.

Q. Are the opinion expressed in the statement the opinions of the Sabha, or are they your personal views?

A. It represents the opinion of the Sabha in this respect, that I consulted individual members of the Sabha, but we did not hold a meeting for this particular purpose. However, in several of our meetings we have strongly objected to Sarda's Bill and have sent protests to the Government. But so far as the Age of Consent law is concerned we are not very keen.

Q. May I take it then that you are against the fixing of the age of marriage, but that you are not much against the Age of Consent?

A. Only we object to the Legislature interfering, because sufficient case has not been made for the interference.

Q. Is pre-puberty marriage looked upon as a necessity amongst the Brahmins in this part of the country?

A. Yes; but consummation does not generally take place before 15 or 16.

Q. Are you then in favour of the law of the Age of Consent?

A. I say that if legislation must come let it be only with reference to the Age of Consent.

Q. If so, how much will you have for the Age of Consent?

A. Taking practical politics into consideration I think 14 in marital relations and 16 in extra-marital cases would be quite sufficient. I think it would be fantastic and not practical to raise it to more.

Q. Do you think that if the age is raised to 14 or more cases will come to light?

A. As sure as anything cases will not come up though breaches of the law are likely to occur. Also in the case of poor people the law might work havoc because they are always helpless to avoid harassment.

Q. Are you quite sure in what you have said, namely, that in the Brahmin communities the normal age of Garbadhan is 15 or 16?

A. I am absolutely correct in my statement. I am talking from my own observations, but the exceptions will be mostly amongst the westernised and well-to-do classes of people.

Q. Do you mean to say that most of the people who are westernised have consummation earlier?

A. Sometimes they do not have it at all.

Q. Do you mean to say that consummation before a girl is 13 or 14 is uncommon?

A. It is uncommon.

Q. How many days after puberty is the nuptial ceremony celebrated amongst the people here?

A. It is usually a year and a half or two after puberty.

Q. Is it a fact that the Brahmana Mahasabha considers it a Sastric injunction that the consummation should take place within 16 days of the first menses? If so is it only recommendatory or is it binding?

A. The Sabha as such has not considered the question. But the meaning is not that, that consummation should take place within 16 days of the

first menses. It does not mean within 16 days of the first menses. In this many Pandits agree with me that it is not so.

Q. Is that the reason why you say that consummation can be deterred without breach of Sastraic injunction?

A. Yes.

Q. You say that to interpret them thus would be to go counter to many other sastraic injunctions. What are the Sastraic injunctions to which this will be counter?

A. For instance I have quoted Susruta which is as binding upon us as any other Smritis, because the object of marriage is the production of healthy progeny. Susruta gives 16 and that is binding on the Brahmins because it is as good as the Smritis. That is one. Another is we are asked to perform so many other ceremonies before the husband and the wife can join together. One is Sthali Paka or fire offering where food is prepared and offered to fire and the remnant taken by the couple after which only the couple may join.

Q. Is Susruta against consummation within the 16 days of the first menses?

A. He says that if Garbadhan is performed before the 16th year it ends in miscarriage.

Q. Have you any other authority to show that the Sastras are not to be interpreted as mandatory?

A. The Sastras prescribe Prayaschitta in case Garbadhan is deterred. Apastamba and Asvalayana have laid down that in case owing to the neglect of the parents marriages have got to be performed after puberty a Prayaschitta has to be performed.

Q. What is this Prayaschitta?

• A. It mainly consists of Homas (oblations to fire) and Danas (gifts).

Q. Is it believed that it does away with the sin?

A. It was discussed in Benares by the Pandits there and they came to the conclusions that the sin is wiped out. The majority or orthodox people seem to be of opinion that the Prayaschitta absolves sin. But they have decided that it should be only in extreme cases when the parents or the brother neglect to get the girl married before puberty and the girl is obliged to wait, and not otherwise, that the sin is wiped out.

Q. Do you personally think that Prayaschitta wipes out the sin?

A. Yes; it wipes out the sin.

Q. Is the sin Brunahatya?

A. Yes; it is Brunahatya or killing of the foetus. That sin is expiated by performing Prayaschitta.

Q. You have given authorities in support of the fact that the texts in this respect are not mandatory. One such authority is Susrut, and the other is the fact that Prayaschitta is allowed and it expiates the sin. Can you give us any other authority?

A. There is Sishta Achara which is practice. In practice consummation within 16 days of the first menses is a thing of absolute non-occurrence. Probably there may be one case in ten thousand but they are exceptions which prove the rule.

Q. Are you right in saying that the Garbadhan ceremony generally takes place about two years after puberty?

A. Yes; ordinarily it is so. In some cases for secular reasons it is more. There is the wrangling for the dowry and in some cases it is so long delayed that the young man grows impatient and breaks the restraint of the father.

Q. You have referred to Taittiriya Brahmana and Apastamba Sutras in paragraph 6. Can you kindly send us the original texts?

A. Yes; I will send you.

Q. In paragraph 7 you say that it is certainly better to avoid both early pregnancy and frequent pregnancies. Do you recognise early consummation as one of the causes of maternal and infantile mortality?

A. It is so in individual cases, but not in all cases.

Q. Have you known of any cases of girl mothers below 15?

A. Girl mothers of 14 and 15 there have been many. Before 14 they are rather rare, but before 15 they are many.

Q. What is the condition of their health?

A. So far as I know, if they are not subjected to frequent confinements they do rally and many of them grow old and strong. But if they are subject to frequent maternity they do suffer.

Q. What about the children in the case of girl mothers?

A. The children are not so bad as the mothers.

Q. You say that to raise the Age of Consent to more than 14 would create trouble. What sort of trouble do you mean?

A. What I say is it there should be a law at all let it be about the Age of Consent. But my objections are to any law on these matters.

Q. Do you know of any cases of the breach of the law as at present?

A. Not at any rate in these two years. Before 1925 there have been stray cases.

Q. Have there been cases of concealment of puberty by parents?

A. There might have been such cases just as we have got our legal fictions.

Q. If puberty is attained before marriage is it kept secret?

A. Nowadays people do not take too much trouble to conceal it. They do not mind. I have personally known of many marriages taking place long after the girls had attained puberty.

Q. Have you got the Vag Nischaya ceremony amongst you?

A. We have got a similar ceremony which is called the Nischayakarta ceremony. It usually takes place on the night previous to the marriage.

Q. Do you accept the authority of Susrat that consummation should not take place before 16 as a medical authority?

A. We believe in it and admit that the results will not be as desirable before 16 as they are after 16.

Q. Why do you then fix the Age of Consent at 14 and not at 16?

A. Times have changed and it will be practically useless to have a law which can never be put in practice. In matters like this you cannot have this sort of inquisitorial proceedings. Under the English law there can be no rape by a husband on his wife, and also marriage under 12 is not declared invalid.

Q. But have you heard of marriages in England under 12?

A. What I mean to say is that the law is sensitive to private matters.

Q. But the practice there is far ahead of the law.

A. I say that the law when it interferes with private and domestic matters has got to be at a very safe distance and sensitive lest more disasters than the ones which you want to avoid might arise.

Q. Do you mean to say therefore that though Susrat recommends 16, you would recommend only 14 on these grounds?

A. Yes; I fully believe with Goldsmith that that virtue whichever requires to be guarded is scarce worth the sentinel.

Q. Do you think that because there is an interval between puberty and consummation there are scandals about girls?

A. The discipline of the ordinary Hindu home is such that no special guarding is necessary. It is therefore impossible except in extreme cases for girls to go wrong.

Q. If there are places in India where there is consummation before 14 and even 13, would you have any objection to the law being made applicable to such cases?

A. Certainly I would have a law for such localities.

Q. Do you think that if the age is raised to 14 cases will come to light?

A. Such cases will not come to light, and that is the reason why I object to legislation. If people are not going to take care of themselves no amount of legislation will help. It will only result in poor people and others who have got enemies being harassed.

Q. You say that cases will not come to light even if the law fixes the age at 14. Is that the reason why you recommend 11, because nobody will be affected?

A. My point is that if the Legislative Councils or Dr. Gout do not want to leave us alone, they can please themselves by having a law fixing the age at 14.

Q. Then you can as well say that you do not want legislation.

A. I say so even now.

Q. What are your objections to the law of marriage?

A. We believe in religious injunctions. We believe in a betrothal before puberty when the parent has control over the girl. That has been in existence for over fifteen hundred years in this country, and except for the occurrence of child widows the system has worked very well. The progenies of such marriages have in no way been behind other people in morals or health or otherwise. Therefore we are reluctant to change that system unless we have some more serious thing in our hands.

Q. But we are talking from the medical and physiological aspects of the case?

A. Eminent persons like Sir John Woodroffe have said that the only drawback is early widowhood, and for it there is no remedy. But there is the Widow Remarriage Act and people are at liberty to remarry. Instead of that you want to destroy a system which has been working very well and done much good to the country, morally, physically and religiously.

Q. You said some time ago that cases of puberty before marriage are not nowadays concealed. Is that so?

A. Yes; that is another reason why I am opposed to legislation. The desired result is being obtained automatically. The restraint of orthodoxy is there simply as a check against early return, and therefore it is an advantage. I maintain therefore that at the present rate you will gain your object and at the same time you do not have destruction.

Q. Are the people who celebrate marriages after puberty excommunicated?

A. The orthodox section is at present not so strong as to talk of excommunication. The tyranny is now that of the educated community.

Mr. Keshavaiah Lal: Can you tell us in what communities early marriages are still practised?

A. Amongst the Brahmans and the Arya Vaisyas or Komatis.

Q. What is the usual age of marriage amongst them?

A. It is generally between 10 and 12.

Q. You say that till a girl is 15 or 16 she is not allowed to go to her husband. Is that so?

A. As a rule she is not allowed.

Q. Is there any particular community which offends against this rule?

A. I do not think any community wants to violate the rule.

Q. You want that the age of consummation should be fixed at 14. Do you think that 14 would sufficiently protect the girl and her progeny against injury?

A. I do not think it will go far to protect them. It will only be like a sword of Democles. At the most it will only have some salutary educative effect.

Q. Will it help the social reformers in their work?

A. Yes; social reformers of the right sort. As a matter of fact consummation in this part of the country does not take place before 13. The tendency at present is to raise both the age of marriage and consummation.

Q. Do you not think that if we fix the age at 14, we should be offending against the dictum of Susrut?

A. I only quoted Susrut to show that a law of this kind would not interfere with religion.

Q. We have been given instances where girls of 13, 14 and 15 in other parts of India have received injuries as a result of consummation or early maternity.

A. There have been cases of that kind here too, but they are exceptional cases.

Q. If such cases are common, would you recommend that legislation should be had recourse to?

A. Those are exceptional cases, and I would not recommend legislation.

Q. If there are 4 per cent. of such cases would you call that common enough?

A. I should think it worth considering if it is one-third or half.

Q. If we are told that 20 per cent. of the children that are born die within their first year, would you attribute it to early maternity?

A. It might be in some cases only. But there have been cases of early maternity in which the children get on much better than the mothers. I do not think that infant mortality can be an argument.

Q. If mothers become weak as a result of early maternity, would you then consider legislation necessary?

A. If cases of that kind are many, say 30 or 40 per cent.; then certainly the law must interfere, but not if it is only 3 or 4 per cent.

Q. Do you think there has been growing physical deterioration in the country during the last fifty years?

A. Yes; but it is among the English educated; it is only among people who have been accustomed to modern habits.

Q. If you find that in other provinces early marriage and pre-puberty consummation are still common, would you recommend legislation?

A. Those provinces must have special legislation. The provincial legislatures may in such cases very well interfere and make law for them.

Q. If it is found among particular communities in several provinces?

A. Why should other people be penalised for the sake of one particular community?

Q. We have been told that among certain classes of Moplahs and Brahmins marriages take place very early and sometimes consummation takes place soon after puberty.

A. I have myself said that there are stray cases of that kind even here. But the question is whether it would warrant legislation.

Q. If there are cases of that kind in this very province?

A. If the cases are found in large number then probably the legislature would be justified in interfering.

Q. You say that the law would not protect the girls and cases of breaches of the law would not come to light. Do you think it would be possible

to constitute vigilance societies for the purpose of watching and bringing such cases to light?

A. I protest emphatically against constituting vigilance societies which is only another name for the C. I. D., for purposes of this kind. This country has had a surfeit of vigilance people. They would do more harm than good.

Q. Would you like women organisations to look after these cases. Do you think they will be of help in the matter?

A. In this Presidency at any rate, women organisations have not appealed to any women in the country. They have been working only on the surface.

Q. The organisations are bound to grow and spread. If they spread do you think they can help us in bringing cases to light?

A. It will be many a long year before such things are accepted by the country.

Q. What do you mean when you say that potential evils will result from a legislation of this character?

A. I had a discussion about this with my wife and daughter. They are orthodox people but at the same time not uncultured. They were simply shocked at the idea of putting the husband in the jail. They asked if people wanted the husband and wife to live together or wanted them to part for ever.

Q. But the direct object of legislation would be not to punish people unnecessarily, but to stop early consummation.

A. I think the educative and preventive effect of such legislation would be quite sufficient. But the interference in these matters must be minimum; otherwise there would be no virtue in law.

Q. Supposing we require these marital cases to be enquired into by a Police officer not below the rank of a Deputy Superintendent of Police or Circle Inspector, do you think that it will minimise the possibility of evil and prevent vexatious prosecutions.

A. Of course the greater the grade of the officer, the greater the security, but I do not think that will make much difference.

Q. Would it not reduce the potential evils you are afraid of?

A. To a small extent. But what about the actual degradation in the society and suffering of that kind?

Q. Supposing we further require that there should be a preliminary enquiry by a magistrate before the actual prosecution is started or before notice or summons is issued to the accused?

A. I think even an ordinary enquiry of a public character in a village is enough to bring humiliation on any man.

Q. Do you think it will be deserved or undeserved?

A. Supposing the boy is 16 and the girl is 13½, and by some misadventure the young man commits a breach of the law, would you proceed against him? You spoil the very girl whom you want to protect.

Q. Supposing we give a warning to the husband and take a bond from him?

A. At 14 in other countries people can marry and give consent. Here it is only a technical offence and you can give the husband warning and bind him over.

Q. In order to restore friendly relations between the parties, would you make marital cases compoundable with the sanction of the court?

A. Yes; that will be a safeguard.

Q. Another suggestion that has been made in that these marital cases might be tried by a matrimonial court consisting of a magistrate and two

non-officials. Do you think that such courts will inspire greater public confidence.

A. It would certainly be better.

Q. Do you not think that with these safeguards the danger of harassment would be very much gone?

A. No doubt these will go some way towards mitigating the evil. But I would not have imprisonment as punishment in any case. The punishment should only be confined to recognisance bonds.

Q. Supposing a girl receives serious injuries at the hands of a man 30 or 40 years old. Do you think that in such cases bonds would be sufficient. Would you not better have security bonds and also such punishment as the case may require?

A. As far as possible the Magistrate should be asked to exercise the alternative of giving warning in suitable cases.

Mr. Kudri: Last year there were three cases of consummation below 13 in Madras and the Magistrates have always been lenient in dealing with such cases. Do you want anything further.

A. It is always unsafe to rely upon this because Magistrates are after all men.

Q. But do you not realise that they will be acquainted with the conditions of Indian society and they will be anxious to see that the relations between the parties are not unnecessarily strained?

A. I would not like to arm the Magistrates with such powers.

Q. You say in paragraph 7 of your statement that maternity before 16 is neither good nor safe. Is that your experience?

A. I have seen very many cases of first confinements starting after 20 attended with serious trouble. Confinements between 16 and 20 have been the rule and quite safe. Of course marginal cases there have been both ways.

Q. You say that the safe age for maternity would be between 16 and 20. Will you have any objection then to have the age of consummation at 15?

A. My only objection is that once you allow the law to interfere in our domestic life there is no knowing where it will end.

Q. But there are safeguards provided. Are there not?

A. But why should you first create a law and then provide safeguards?

Q. There are so many girls who have been ruined because of early consummation, and medical experts consider that the age should be fixed higher. What do you say to that?

A. It does not require medical opinion to say that. And here, in this part of the country, consummation before 15 rarely takes place.

Q. In Bombay among certain communities especially the Marwadis there is very early consummation with very disastrous results. A Marwadi gentleman from Dhulia told us that in West Khandesh a young girl was raped by an adult husband and she suffered immense tortures. They have got the Rat Jaga ceremony and the husband and wife made to cohabit on the day of the marriage even though the girl has not attained puberty. Do you not think that such girls require protection?

A. In such cases I have no hesitation in recommending legislation.

Q. If the age of marriage and the age of consummation are sufficiently high will not that object be achieved, namely the protection of the girls?

A. Our objection is that the law should have nothing to do with religion. I see from the evidence tendered before this Committee that many people have suggested that the age of marriage should be raised. But people in this part of the country have asked me to bring it to the notice of this Committee that that part of the evidence should not be considered by this Committee because it is beyond their purview.

Q. You say that at present there is a tendency to raise the age of consummation automatically. Do you not think that that tendency will increase, if the age is fixed by law?

A. I think that law or no law that tendency will go on.

Q. We have been told that in some cases the boy is impatient to consummate marriage. Is that so?

A. I find that Mr. Viswanatha Sastri is of that opinion. But I may tell you that such things are very rare. It happens only amongst some rich people.

Q. Do you not think that the law should be in conformity with the actual practice which already prevails here?

A. As I have already said the law of the Age of Consent does not trouble us much at all.

Q. Do you think so because it will be a dead letter?

A. As I have said more than once, having regard to the facts as they are here it is not of much consequence.

Q. Do you think it will have some educative effect?

A. Yes, on the sort of people you refer to.

Q. We have been told that, young husbands grow impatient to consummate marriage in some cases, and make demand of their fathers-in-law to send their wives to them, even though they might be immature; and in such cases the law might be useful in helping such fathers-in-law in resisting the demands of their sons-in-law. Do you think so?

A. Yes; it will be useful that way.

Mr. Seth Anand: In paragraph 1 you say that no dissatisfaction has been expressed in any quarter regarding the present state of the law. Are you talking of the Europeans or non-Britishers?

A. Among the non-Britishers this question never arises. They never marry before puberty at all, except in very very rare cases when the question is to secure a suitable bride.

Q. Is there dissatisfaction among the women?

A. In the majority of women the idea never enters at all. Among the educated women there are very few who express themselves on the public platforms.

Q. A resolution has been passed on the platform by the Social Women's Association, do you think they form a very insignificant minority?

A. They are absolutely insignificant minority as compared with the vast population here. Mostly ladies meetings are organised by the Theosophical Society.

Q. Do women generally favour pre-puberty marriages?

A. Certainly. I have consulted many ladies including my wife and they think that pre-puberty marriage is the best form of marriage they could conceive of.

Q. Do they favour consummation soon after puberty?

A. Certainly not.

Q. Supposing we find that a large number of marriages are consummated soon after puberty, say within five or six months, would you have legislation?

A. I would rather put it this way that if a very large number of consummations take place below 14, instead of say soon after puberty, I will certainly be justified to interfere by legislation.

Q. In paragraph 3 you say—For one thing, if a minor cannot bind herself by a promissory note, it stands to reason that her incapacity is greater in respect of the consequences of illicit intercourse without the safeguards of marital responsibility in the man. Don't you think that enunciation by you would apply to pre-puberty marriages?

A. I do not think so. I say that especially without the safeguards of marital responsibility. That paragraph applies to cases of extra-marital relations.

Q. The Shastric injunction regarding the pre-puberty marriages does also apply to non-Brahmans?

A. It is binding only for the first 3 castes. Non-Brahmans are guided by customs, and it is not binding on them. When custom conflicts with Smritis, custom prevails.

Q. Is not it so among the Brahmins?

A. Long established custom over-rides Smritis but in a matter like marriage they are distinctly governed by custom.

Q. Would Brahmins like to preach that doctrine to the non-Brahmins?

A. Without our preaching they know. When necessity occurs they do it and I know a friend of mine holding a high social position marrying his girl at 5 to a young man of 17 who was in the intermediate class fearing that he may not get another boy. I have known such cases even amongst Mohamedans.

Q. You would not mind telling non-Brahmins about that religious injunction in respect of marriages?

A. I would not hesitate to tell them.

Q. If these injunctions do not apply to non-Brahmins it will simplify matters very much but here the idea is that this injunction does apply to Brahmins and non-Brahmins but any opinion coming from you would carry great weight.

A. I can cite you an authority. It applies to Brahmins and I am pleading on behalf of the Brahmins.

Q. Non-Brahmins as a class would say that it does not apply to them?

A. Yes.

Mr. Thakurdas Bhargava : May I know the actual religious injunction which you refer to and which applies to Brahmins?

A. That is summarised in one word *pradanam pragritoh* that is to say the gift of the girl must be made before she attains puberty.

Q. May I know how you translate the word *ritu*?

A. It means the first menses.

Q. There are certain commentators who have translated this word *ritu* in a different way. *Ritu* may not be said to have been attained unless the girl is capable of bringing forth children.

A. Even some people would say that she is capable of bringing forth children at the first appearance of menses.

Q. So that this is open to different interpretation?

A. Among the Smriti writers there is a conflict—some say after 10, some after 11 and some after 12. The most literal interpretation can be taken of the injunction namely first appearance of menses before which gift must be made.

Q. 20 years before consummation before 13 was not uncommon?

A. I can speak from memory for the last 35 years. During this period the age of consummation has been 15 or 16 years.

Q. You say that marriages before 12 are exceedingly rare. May I know what would be the percentage of marriages where the girls are more than 12?

A. I think at present we may safely say that about 20 per cent. of marriages take place after 12.

Q. In those cases people are not excommunicated?

A. No.

Q. And there is no attempt at concealment?

A. People feel the restraint of the Shastras but still they are unable to keep to its limits.

Q. You say that natural causes are working to bring about the desired results. May I take it that you also think that the desired thing is that marriages should take place at 15 or 16?

A. I am not quite agreeable there. Please note before we jump at such conclusions that rights of the female Hindu society are to be safeguarded. Until and unless our girls get rights to manage property the question of the fixing of age must not be disturbed.

Q. You think natural processes are working to bring about an undesirable result?

A. No.

Q. I want to know whether you yourself wish that social reform movement and education should spread to such an extent that people may come about by their own choice to 16 so far as marriages are concerned?

A. So far as betrothal is concerned my own idea is that at the earliest possible opportunity the parents must provide for the girl and consummation should take place later.

Q. You do not want that social reform movement should have as its aim the age at which marriages should take place?

A. If people do celebrate marriages later I have no quarrel.

Q. Do you want their number should increase or decrease?

A. My opinion is that the girl should be suitably provided for at the earliest opportunity and consummation must take place at the age of 16.

Q. But there is a movement in the country and there are natural causes which tend towards prolonging that age?

A. If they do prolong the age of marriage I have no quarrel.

Q. May I know the percentage of child widows in your community?

A. I cannot give figures. Among the Brahmans here we have a complaint about statistics. They simply give the number of widows and not the number of married people.

Q. Is it a large number or is it a small number?

A. It is not such a large number.

Q. Would you say 15 per cent. widows?

A. No.

Mrs. Nehru : There are 3 lakhs of widows below 15.

A. Those people who are concerned in social reform movement should push on their work with widow remarriages.

Mr. Thakurdas Bhargava : Do you think widow remarriage would be according to Shastras?

A. There is no question of Shastras when it is already in the field. If really any public speaker advocates the cause of widow remarriage there is nobody to object to it but only you do not find such speeches translated into action.

Q. So far as the condition of child widows is concerned one witness told us that he was of opinion that the condition of the child widows was so deplorably bad that he would prefer the system of *sati* to that of child widows.

A. I have said with regard to widow remarriages that we need not bother about the Shastras at all.

Q. If the marriageable age is raised to 16 you will be automatically decreasing child widows.

A. I do not think there is any virtue in that. By that way where are we going to stop?

Q. According to Shastras consummation ceremony should take place shortly after marriage. Is that so?

A. Certainly not.

Q. Supposing we have heard so much evidence in other parts of India that the people think that it is a religious injunction that consummation should take place soon after marriage.

A. I dispute such a view.

Q. If there is a religious injunction like this—whether it is right or wrong—would you agree that in matters like this religious injunction should not be cared for and the interests of the country should be cared for more?

A. I should be spared from answering that hypothetical question because I do not believe that there is such injunction. You will probably have got some of the answers in this Presidency; some people may have put forward that extreme view but it has never been acted upon.

Q. If there is a large volume of opinion that injunction about marriage is wrong would you agree to it?

A. If the majority of Brahmans think that Shastras do not enjoin early marriage I will agree to it.

Q. Majority think that pre-puberty marriage is essential and the majority also think that garbhadan must be done within 16 days?

A. No.

Q. So far as remarriage of child widows is concerned I take it that you are out for encroaching on the Shastras?

A. I do not agree.

Q. You will say that this sort of legislation will be setting a bad precedent?

A. You have got a bad precedent already.

Q. In reply to a further question you say that the amendment of 1925 does not matter much either way. Is it because the age was not sufficiently raised?

A. In this part of the country it was not of much consequence because consummation does not take place before 14 or 15.

Q. In paragraph 1 you say that no case has been made out as to why the law set at rest so recently as 1925 by the legislature should be re-opened so soon. Do you know in 1925 there were a good many people who were for a much greater advance?

A. I think 13 was fixed in 1925 in accordance with the principle that penal law should stand at a distance and interfere to the minimum extent.

Q. Dr. Gour's Bill was before the Legislative Assembly even before that time?

A. Yes, but I think the Assembly arrived at a compromise that penal law should stand at a safe distance.

Q. In England marriages are not solemnised at an early age. I can understand that the law may be behind actual practice but where early marriage is the rule should not the law be forward?

A. Here anything and everything is sought to be legislated upon. I found the other day that a Member of Parliament had put the question whether the Government of India was going to discourage the bill regarding the age of marriage, which means pressure is brought upon the Government of India.

Q. So far as Brahmans are concerned have they not always been in favour of making laws for social customs and private matters?

A. They have been making laws for the last thousand years.

Q. For extra-marital cases you say that so far as this question is concerned you think it will be solved if you raise the age to 16. You know that for civil contract the age is 18. May I take it that you agree to the raising of the age to 18 in extra-marital cases?

A. I do not see any necessity for it because there will be more disobedience of the law. I do not see any virtue in making a law which will be violated. A girl can go away from the lawful custody at 16 under Section 361, Indian Penal Code.

Q. But we want prudence?

A. I think Section 361, Indian Penal Code, gives a prudential limit.

Q. You think 361A has transgressed the limits of prudence?

A. I think I must stick to my opinion that 16 is a fair limit.

Q. Supposing a girl of 15 is kidnapped by a person and after keeping her for 2 months the man has intercourse with her. According to the present law the man can be punished for kidnapping but he cannot be punished for rape. Do you realise this?

A. Yes.

Q. After 2 months it is natural that she should be reconciled. If a girl of 16 is kidnapped and kept for 6 months she will be 16½ years. Do you think that intercourse with such a girl should not be punished?

A. I do not think a girl after 16 wants any protection. At that rate you can imagine many cases.

Mr. Mitra: In paragraph 1 you say that on account of the universal commotion raised by Mr. Haribhaskar Sarda's "Child Marriage Bill" especially as it has emerged from the Select Committee, the opposition against the Age of Consent Bill is not likely to be of any great magnitude. Do you think there will be not much opposition to the Age of Consent law?

A. In this part of the country there will not be much opposition. Even those people who are more sensitive would rather give way if they are assured that there will be no marriage bill.

Q. If there is no marriage bill do you think fixing of the Age of Consent at 15 or 16 would be agreed to?

A. There would be no great opposition.

Q. Then you say that a "measure of social legislation is not warranted by any serious necessity or public safety or interest". If it is a necessity in other parts of the country will you have no objection?

A. As far as local legislature should make a law.

Q. Do you think there should be law only when there is the largest amount of crime?

A. In the matter of social legislation distinct causes of necessity and danger must be made out before Government interferences.

Q. Will you take it from me that in this Presidency, not to speak of other provinces, there is a large number of child marriages leading to early consummation resulting in large infant mortality? There is nothing to stand against consummation if early marriage is practised. If it is warranted by necessity you have no objection.

A. No.

Q. You say no dissatisfaction has been expressed in any part of the Presidency. Were there no ladies meetings in different parts of the country?

A. Ladies' meetings are generally held under the auspices of the Theosophical Society and a very few westernised ladies take part.

Q. Do you say that as regards non-Brahmans the Hindu Law is not so much applicable as customs?

A. The law of marriage is not applicable to them as custom. In the matter of inheritance it applies but as regards marriages there are 100

varieties of customs among the non-Brahmans. One custom which applies to one community of non-Brahmans does not apply to others. There is one uniform principle that they do not care to marry before puberty.

Q. Is it not correct to say that Hindu law as regards marriage does apply to non-Brahmans?

A. No.

Q. Does it apply to Brahmins of all sections?

A. Certainly.

Q. Are these laws mandatory or recommendatory?

A. These laws are mandatory. There are 45 sanskaras. Whatever comes in these sanskaras is mandatory.

Q. Infringement of the law is not punished?

A. Smritis provide other cases of extreme necessity and inability.

Q. You certainly know that according to Shastras marriage should be at 8 and 9?

A. They consider marriage between 8 and 10 as the best.

Q. You say 20 per cent. of marriages take place after 12?

A. I am speaking of the present practice.

Q. Strictly speaking these 20 per cent. do not follow the Shastras.

A. Some individuals are unable to follow the injunction of the law but they want to conform to it if possible.

Q. You have said that they feel that Shastras enjoin marriages before puberty and that in these 20 per cent. of cases there is no excommunication?

A. No, because society is passing through a trial now. Even those people who do not do it according to the Shastras want in the heart of hearts to do it if possible but they feel they are helpless.

Q. Do you think if the law fixes a minimum age of marriage those people who are feeling restraint of the Shastras will find it an easy plea that because of the law they cannot perform marriage before 12? Will it give them sufficient pretext?

A. These people do not want any pretext at all. If they had intended to violate the Shastras it would apply to them but they are anxious to follow the Shastras.

Q. As regards the extra-marital cases you fix the Age of Consent at 16?

A. Yes.

Q. You are not for 18?

A. I am not in favour of raising it further.

Q. In some cases it happens that girls are seduced away. Don't you feel that girls here are less literate and in Northern India women remain in purdah. Do they not require greater protection than the Age of Consent within marriage? In the case of marriage it is only a question of physical development but in the case of extra-marital relation it is a question of physical and mental development. Moreover when these girls are married early they become widows and are absolutely helpless and are seduced away.

A. When a girl voluntarily gives consent at 16 she must be left to herself.

Q. Is she in a position to give any consent at 16?

A. I think so.

Q. Where do you think opposition will come from if the age in extra-marital relations is raised to 16? Will orthodox people protest?

A. As a matter of fact not one individual is going to protest; they may protest on paper but not in practice.

Q. Do you like that marriages should be registered?

A. God spare us from that system.

Q. The mere fact of recording the marriages?

A. The fact of marriage has never been questioned in this Presidency.

Q. It is not fact of marriage but it is the question of age.

A. I do not think our courts have had any trouble over this matter. Even in cases of Age of Consent you would not find any trouble.

Mr. Mudaliyar: Are you aware that amongst the Brahmans themselves there are certain gentlemen who are for advance with reference to the Age of Consent and also for fixing an age for marriage?

A. There are some.

Q. Is it not a fact that meetings have been held of Brahman gentlemen exclusively where resolutions to this effect have been passed?

A. I do not think any meeting has been held of the Brahmans as a class.

Q. In any case meetings have been held.

A. These were of social reformers under the auspices of the Theosophical Society.

Q. Recently a Dharm Paripalan Sabha was started neither under social reform auspices nor under the auspices of theosophical society. There have been conferences like that where the majority of the people who took part were Brahmans and who generally are considered as orthodox people.

A. No, I dispute that. Dharm Paripalan people are mostly reformed men. I know the gentlemen and ladies who went there.

Q. Is it your view that Brahmans who take part in favour of fixing a high age of marriage are heterodox people who cannot be considered as orthodox men in the real Shastric sense of the word. Is it not?

A. Yes.

Q. I understand you to say that every Brahman would like to perform his marriage according to Shastric injunction even now-a-days and the prevailing opinion is that where that is not done it is merely an inevitable necessity that forces them to take a course against the dictation of Shastras. May I put it to you that this group of Brahmans are trying to do these things out of conviction which does not arise from necessity?

A. I doubt very much whether among the people who constituted this Sabha there are very many who do give effect to this principle in their practice.

Q. May it not be that they have not got the courage to carry out their conviction in practice.

A. I have no regard for conviction which is not translated into practice. My point is that Dharm Paripalan Sabha people are more or less academic sort of discussing people; they are theosophists and one or two of them are social reformers and to say that they are Brahmans is not quite enough to oppose my proposition that they do not respect the Shastras. Every general rule has got exceptions. They may be in their heart of hearts convinced in the truth of what they say. I do not want to discredit them but I dispute the proposition that they represent the Brahmans.

Q. You are disputing a proposition which has never been brought up. You have said that no Brahman performs this out of conviction but that it is merely a question of necessity.

A. You asked me about 20 per cent. cases and I never said universally about all Brahmans.

Q. You say certain marriage laws do not affect the non-Brahmans.

A. I mean the Smriti laws.

Q. As a matter of fact apart from the post-puberty marriages among most non-Brahmans are not the household ceremonies identical with those of Brahmins?

A. Not necessarily.

Q. This Brahman form of marriage and *kaniya dan* is supposed to be the best form of marriage and the ceremonies are mostly the same.

A. Ceremonies are altogether different from the Brahmins and I have attended some marriages amongst non-Brahmins and I can say that our ceremonies do not generally correspond.

Q. While the non-Brahmins also accept Smritis as binding including the marriage ceremonies and so on, does not the difference arise only where custom has been allowed to abrogate Hindu law?

A. Yes.

Q. In Brahmins are there several customs which have abrogated the law of marriage?

A. No. There is the Sanskrit itself which abrogated the change.

Q. In Southern India there are certain relationships which are permissible. Marriage for instance with sister's daughter is common and it is performed here. Is it not?

A. It is not permissible here.

Q. It is so common. There are so many cases among the Brahmins. It is common that sister's daughter is taken in marriage. Has it not abrogated the law to that extent.

A. In certain cases the law is not followed.

Q. So the inference is that whatever suits them they keep and whatever does not suit them is left out?

A. Brahmins as a rule follow the Shastras.

Mrs. Brijlal Nelu: I understand you to say that early marriage is being practised in India for centuries and no untoward results have happened?

A. Early marriage has been practised all along and we are not very much worse off than the other countries.

Q. Can you give instances to show that we are not worse off than other countries?

A. Physically, morally, mentally and intellectually we are not deteriorated.

Q. But is our economic, intellectual, physical and political condition all that is desired or is it on par with other countries?

A. Political and economic conditions depend on other circumstances.

Q. Are not all these things in your opinion inter-connected?

A. To a certain extent but our marriage custom does not react on the economic and political conditions.

Q. Do you really maintain that?

A. I am afraid I do.

Q. But this 3 per cent. of Brahmins whom you consider to be ideal as far as intellectual or physical growth is concerned don't you think even they would have been better off if they married late.

A. That is putting forward a hypothetical case. As a matter of fact so far as I can remember I find greater deterioration in this quarter of a century than before. As far as I remember my elder people were stalwart in learning and intelligence.

Q. But where has that amount of stalwart learning and intellect led us to? I want you to see the present physical, economic and intellectual

conditions in which we are living to-day and in the light of these justify the custom of early marriage.

A. It is due to variety of causes and the question of early marriage is an infinitesimal portion of it.

Q. Then you admit that it is one of the contributing factors.

A. To a very small extent in practice.

Dr. Bendon: Is there any considerable number of elderly men say over 35 marrying girls of 12 and 13?

A. There are a number of marriages like that.

Q. In these cases is consummation put off till 15 and 16.

A. Some of them put off and others do not.

Q. We have been told that consummation follows practically immediately. Could you tell us what percentage these people who marry at an advanced age with young girls form to the total population?

A. It is rather hard to say.

Q. Could you say for instance during the last five years how many marriages like this took place?

A. I can't say that.

Q. Do you think that it takes place frequently or once only in five years?

A. Certainly not once in five years. Nor are the cases so frequent as to attract our serious attention.

Q. Would you say that every year there are about a dozen cases?

A. There are a dozen cases.

Written Statement, dated the 10th August 1928, of Rao Bahadur M. CHENGAYYA PANTULU GARU, B.A., B.L., Commissioner, Hindu Religious Endowments Board, Madras.

(1) The law as to "Age of Consent" and the proposed amendment raises the question of the age at which a woman can be deemed to have the capacity to consent in the eye of the law, which, for prudential rather than humanitarian reasons, recognises a distinction according as the offender is the husband of the woman or a stranger.

(2) As suggested in question 10, the consent should be one given with a due realisation of consequences, which in all cases consist of various degrees of ill repute and chances of maternity, which may prove particularly disastrous in the case of spinsters.

(3) A consideration of the period of minority as fixed by the law is relevant, though it is not suggested that it should be followed at once. In ancient Hindu law, the period was sixteen years. The British Indian Law has raised it to 18 years in respect of all transactions affecting property. In respect of kidnapping, the Criminal Law has adopted 16 years as the period up to which the consent of the person kidnapped is immaterial. There may be cases of kidnapping from lawful guardianship even by a husband where the custom of a particular community retains the lawful guardianship of the father or mother up to a particular age.

(4) With the spread of education and a growth of a sense of independence and self-respect among women, they are dissatisfied with the degree of protection afforded by the law as regards "Age of Consent". It will not do that the woman gives her consent under temptation which she is not old enough to resist or with a desire to satisfy a craving, induced rather than natural. She must be of such age and understanding as to know and balance the consequence of the association. Woman is no longer the mere creature of social environment. She is receiving education and training which enable her to determine her future and choose her occupation. She should not be

victimised at a state of immaturity and hampered in her growth to full womanhood.

(5) As regards girls among communities where prostitution is a profession, the girls have a right to greater protection than the law now affords. Consent given by a girl of fourteen living under circumstances which deprive her of any sort of freedom should be accepted as a valid defence.

(6) The aim of the law should be to protect girls from the consequences of acts which they cannot be deemed to have validly consented to, in the sphere of sexual relations upon the same principles and to the same extent as it protects them from the effect of transactions involving civil rights.

(7) A periodical revision of the law is imperative until the "Age of Consent" is brought into conformity with physical fitness and maturity of understanding of Indian girls.

1. The answer to question 1 is "Yes".

2. The answer to question 2 is "The circumstances stated above justify making an advance on the present state of the law".

3. Crimes of seduction or rape are fairly frequent in this province—in Madras. They mostly occur in the country parts and in the field where girls of tender ages as well as boys are generally sent out for watching cattle or other agricultural purposes. The amendment of the law in 1925 has not had any effect in preventing or reducing the number of such cases.

The tardy process of the law, the unwillingness of the parties to give evidence are obstacles in the way of such cases being effectively dealt with. If some means can be devised by which such cases can be enquired into locally and disposed of with some immediate, though not severe punishment to the culprits, greater protection will be afforded to young and immature girls occupied in the fields. This suggestion would require certain powers to be given to the village authorities in the matter, but with the growth of the Panchayat system the time may be said to have come for an experiment being made by giving limited summary powers to Panchayats that may be found to be strong and respectable.

4. The amendment of 1925 raising the age of consent to 13 years within the marital state has not been sufficiently effective in protecting married girls against cohabitation with husbands either by way of postponing the consummation of marriage or by stimulating public opinion in that direction or by putting off marriage beyond 13.

(2) Public opinion has no doubt been growing in favour of postponing the marriage itself and several individual cases may be found where the marriages are put off till a girl reaches the age of 13, 14, 15 and so on, with the result that some of these marriages are post-puberty marriages but these are not done openly as society has not learnt to tolerate post-puberty marriages, but in the matter of consummation of marriage public opinion itself has not grown sufficiently to have consummation postponed until the girl should be physically fit.

(3) Raising the "Age of Consent" even in the marital state is one of the steps by which further growth of public opinion may be expected. The difficulty is that neither the parties nor their friends nor even their enemies will assist the law in the matter of exposing culprits in this respect to punishment or public trial. The only way in which such cases can be detected and dealt with seems to be by constituting a tribunal other than the ordinary tribunals for dealing with such cases, the tribunals consisting of respectable men and women of the locality whether officials or otherwise, who would be able to deal with such cases as to produce a moral effect. They may be entrusted with limited powers subject to proper safeguards by way of revision or appeal or otherwise—say to the High Court.

5. The usual age at which girls of well-to-do classes attain puberty may be stated to be between 12 and 14. It is considerably higher in the case of labouring classes. Among Brahmins it is lower than among other caste Hindus.

6. Cohabitation before puberty is not common in Madras in any class of society. But cohabitation soon after puberty, say within a few months or a year, is very common and may be regarded as the rule, even though the girl may not have completed thirteen years.

Such cases occurring in a marital state never come to Court. Even enemies of parties concerned have a sentiment against exposure in this matter.

7. There is no religious injunction fixing the age of consummation of marriage. The texts quoted in support of early marriage have been understood to apply to marriage and not consummation. The opponents of Child Marriage Bills make this an argument by saying that while there is an injunction about the age of marriage, the evil effect of such marriages can be avoided by the postponement of consummation as there are no religious objections to its being so postponed.

8. Garbhadan ceremony is usually performed among the Brahmins as a mere preliminary to the consummation and invariably coincides with it. It is generally performed among them a few months or within a year or so after puberty.

10. Though the answer to this question involves consideration within the province of medical experts, watchful experience of the ways of boys and girls should enable one to form an opinion.

In this connection the limit of sixteen years fixed by the ancient Hindus for certain purposes is instructive. There is no reason to suppose that intelligent consent to cohabitation can be given by a girl who is not able to manage her other worldly affairs.

We should not forget that a desire for sexual intercourse may be felt much earlier than the age at which a girl may be deemed physically fit for it and of sufficient understanding to know the consequences. It is the overlooking of this fundamental fact that has led to the child marriages and premature consummation in this country.

Social conditions and family environment may induce a desire among certain communities earlier than in others. Precocity in this respect need not necessarily be accompanied with precocious understanding. Even if it should be supposed to be so accompanied, the law should provide for normal, and not precocious, cases.

A girl betrothed or married living with her husband, prior to consummation, and particularly where she is the second or third wife of an elderly widower, may be induced to have a craving, even as in the case of girls prematurely trained to prostitution. But this does not imply either physical fitness or intelligent consent.

No girl in India below 16 years of age would be competent to give an intelligent consent to cohabitation with a due realization of consequences.

11. This question is practically for medical men to answer.

But I recall a case of rape in Nellore District out of about 50 cases during my tenure of Public Prosecution for 21 years where the girl died of the injuries sustained by her. The Sessions Judge acquitted the accused but on appeal by the Crown the High Court convicted the accused and sentenced him to nearly the maximum sentence provided by law. My recollection is the age of the girl was 12 or 13.

There were a large number of cases in which severe injuries were caused to the genital organs besides other injuries due to struggle which in most cases took several weeks to heal.

There was a case of a rape on a girl of 7 or 8 accompanied by severe injuries. The accused was given an exemplary sentence. The ages of girls ravished varied from 7 or 8 to 14 or 15. Most of the girls were unmarried.

As a rule, cases of rape of married women are rare and scarcely a girl remains unmarried at fifteen or sixteen even among communities where child marriages are not obligatory.

13. The answer is that there has been further development of public opinion in favour of an extension of age in marital and extra-marital cases since the amendment of the law in 1925. It is not confined to any particular class and is fairly general and specially so among women of the country.

14. There has been a marked change in the outlook of women in the matter of early consummation of marriage for their children but neither social environment nor general public sentiment has grown sufficiently to give effect to the women's desire in this matter. It must be said to the credit of the women that they more easily perceive evil effects of early marriage and early consummation than the men, but they are not sufficiently independent and influential in their homes to carry out their intentions.

15-16. There has not been and there need not be much difficulty in determining the age of girls. Even in the upland parts there is great improvement in the accurate maintenance of register of Births, and cases occurring at the very margin are so few where recorded evidence is not available, medical opinion as to age is generally accepted by the Courts and in cases where such opinion is challenged, higher courts have always the power of referring the matter to experts for purposes of testing. There can however be no doubt that the raising of the age of consent to 14 or a higher limit would considerably minimise the difficulty or margin of error in determining the age.

17-19. Much can be said in favour of separating extra-marital from marital offences into different offences. For the reasons indicated in answers to question Nos. 3 and 4 the law has practically failed to touch cases of too early consummation of marriage. Coupling offences in the marital state with offences out of marital state has deprived the law of the chance of either effectively dealing with offences in the marital state or even exercising any educative influence. The provision of less severe punishment is not sufficient to indicate the essential difference between the two classes of cases. Offences by strangers are undoubtedly offences against the State and the society. Husbands committing the offence are more or less creatures of circumstance and social environment and should be more gently and delicately treated though the law should be able to bring them to book. The difficulty suggested in answers to questions 3 and 4 may be suitable for the purpose. I would therefore constitute the marital offence as a distinct offence and suggest the proposed section 376A to be modified as follows:—

"Whoever has sexual intercourse with his own wife, the wife not being under 13 years of age and being under fourteen years of age (I would suggest 15) shall, on a conviction by the 'Marital Offence Court' be punished with simple imprisonment which may extend to 6 months or with fine which may extend to Rs. 1,000 or with both."

This suggestion would involve the constitution of a "Marital Offence Court" to deal with offences under the existing marriage laws and such laws as may now be passed in view of the Child Marriage Bills, etc., under consideration. On the basis of this suggestion, no special safeguards are necessary against collusion to protect the offender or against improper prosecution or extortion, for such cases of improper prosecution or extortion would disappear under the arrangement suggested above.

In this connection the right to complain or prosecute may be entrusted to well organized and respectable Reform Associations, recognised by the Government under the rules to be framed for the purpose, in addition to parents or guardians of girls concerned.

20. Penal legislation raising the age of consent is more effective than legislation fixing the minimum age of marriage.

Reasons.—All communities are already familiar with penal legislation regarding the age of consent. Legislation fixing the minimum age of marriage is more inextricably mixed up with customs supposed to be based on religion and it will be long before the communities concerned reconcile themselves to this new legislation. Further, the minimum age proposed in one of the Bills is not much higher than the present age of consent.

The objects of the two pieces of legislation are entirely different though one may react on the other.

The raising of the age of consent would be more in consonance with public opinion in Madras.

21. Progress of Social Reform by means of education and social propaganda is necessarily slow and there can be no satisfactory progress unless it is strengthened by the penal law. I would consequently prefer to rely on such strengthening.

Oral Evidence of Mr. M. CHANGAYYA PANTULU GARU, Commissioner, Hindu Religious Endowments Board.

(Madras, 19th November 1928.)

Chairman: How long have you been at the bar?

A. 32 years.

Q. Have you been connected with any social reform movement?

A. Yes, in the District of Nellore where I was Government pleader and Public Prosecutor for 21 years.

Q. Which community do you belong to?

A. I am a Telugu Brahman.

Q. I suppose customs in the Telugu Brahmins are the same as in the other Brahmins?

A. There is a slight difference between Tamil and Telugu Brahmins. There is the question of dowry which is not so frequent in the case of Telugu Brahmins as in the case of Tamil Brahmins.

Q. What about the marriageable age: is there any difference?

A. There is no appreciable difference.

Q. Am I right that your view amounts to this that you admit that the ideal age for a girl's marriage is about 16 or over but you suggest that the age of consent should be raised because it would be more acceptable and less resented by the society?

A. Yes.

Q. Do you have any cases of breaches of the Age of Consent Law of 13 years?

A. There are such cases.

Q. What is the age of puberty generally?

A. Generally it is between 12 and 14 centering round 13.

Q. You know of course that cases do not come to light?

A. Yes.

Q. Would you say that there are so much as 15 per cent. of cases or 20 per cent. of cases happening like that?

A. I think 15 per cent. or 20 per cent. is not an exaggeration.

Q. If it were merely the age of consent at 14, as you suggest, do you think there are more chances of cases coming to light?

A. If the present system of detection and control continues there is not much chance.

Q. If we raise the age to 15 do you consider a large number of cases would come to light?

A. The result would be practically the same.

Q. What is the method of detection you would like us to improve upon?

A. Offences in the marital state should be entirely separate from the offences of extra-marital state. In the case of a rape by a stranger he is an offender against the society.

Q. You simply suggest a separate section which will not come under rape.

A. Yes.

Q. How are we going to get these things detected? At present the girls' parents or guardians are expected to make a report but they do not.

A. In addition to these people I think well-established social reform organisations should be empowered to move in the matter. They should be given certain powers by the legislature.

Q. What powers do they require? Even now anybody can make a complaint.

A. But if the law says that any report by a reform association will be treated in a particular manner more cases will come out.

Q. You mean encouragement should be given to such associations by law?

A. Yes. As regards the disposal of cases there should be set up marital offences Courts and cases should be tried in camera. Courts should consist of a fair percentage of ladies. In case the age of the girl is over 12 there should be no imprisonment but fine only or in any case there should be no rigorous imprisonment. The courts should also be empowered to let people off with warning in cases which are not very serious and I think Section 562, Criminal Procedure Code, had much better be employed largely in these cases especially when the offenders are young people.

Q. Supposing all these devices are adopted don't you think that the father and the mother of both the parties and the relations being interested in hushing up cases is the permanent difficulty in the way?

A. No doubt it is, but the difficulty will be very largely minimised by the provisions that I have suggested. If a husband is not treated as an ordinary criminal and tried in an ordinary court and punished as a felon people will help.

Q. You believe that if we raise the age to 15 it will be effective?

A. Yes, I expect it.

Q. You think if a law is passed at 14 or 15 it will be more effective. Supposing Government passes the marriage law would that be more effective? Would you think this is more acceptable?

A. Yes, that is so independently of what you may be able to do in the case of marriage law.

Q. You spoke of powers being given to panchayats. Do you think people will trust them in a matter of this kind?

A. Panchayats are growing in importance.

Q. Would you like to entrust village panchayats with these powers?

A. I do not think there is any harm. If with the advice of Registrar General only few selected panchayats are entrusted with powers, I think the experiment is worth trying.

Q. Would you like these panchayats to have power of investigation into any marital and extra-marital offences and simply making a report to the magistrate on which he can pass orders?

A. I would rather not do that.

Q. Would you like a body recognised by Government to be appointed either for each community or so many panchayats in a town recognised by law to investigate cases and make a formal report to the magistrate?

A. I do not think that would be more acceptable but I do think panchayats organised on this basis will deal with the cases effectually. But I may suggest that I should not have the intervention of the police. I would make all cases non-cognisable but below 12 I do not suggest anything.

Q. What is generally the period of consummation of marriages; are they postponed beyond the age of puberty?

A. I think not more than a few months. 6 months is probably the average and one year probably is the maximum.

Q. You give the age of puberty between 12 and 14 centring round 13 so that before a girl is complete 15 in most cases there is consummation of marriage?

A. Yes.

Q. Are you in favour of marriage legislation?

A. Personally I am in favour of it but the orthodox section would accept the age of consent more readily than the marriage law. I think the marriage law is more effective than the age of consent law.

Q. Supposing there was a marriage law, what age would you suggest?

A. I would fix 14 for girls and 18 for boys.

Q. That is as a compromise with the ultimate object of going to 16?

A. Yes, I consider 16 is the proper age in this country.

Mrs. Nehru: In paragraph 3 of your statement you say there may be cases of kidnapping from lawful guardianship even by a husband where the custom of a particular community retains the lawful guardianship of the father or mother up to a particular age. Is the lawful guardianship of the girl retained by the father by law or custom?

A. In the Hindu law the guardianship up to a particular age is practically with the parents of the girl.

Q. Among which community this custom exists?

A. Among the Brahmans.

Q. But after marriage is a husband not the legal guardian?

A. Yes.

Q. You cannot say it is a law.

A. No.

Q. But then if a husband wishes to have a wife cannot the parents resist?

A. No.

Q. Would you change the guardianship law and make the girls parents guardians of the girl before the prescribed age by law?

A. I do not think any such change is called for.

Q. In order to strengthen the hands of the girl's parents and to enable them to keep the girls against the wishes of the husband, don't you think such a change would be useful?

A. That will lead to unpleasantness.

Q. But in order to avoid unpleasantness such a thing is suggested. If there is such a law the girls parents can say that in accordance with the guardianship law we cannot send the girl before a certain age?

A. Sometimes it would be in the interests of the girl to remain with the husband and sometimes with the parents. I think in this matter no change in the law is necessary and it should be left in the interests of girls as it is.

Q. In paragraph 7 you say that a periodical revision of the law is imperative. Do you mean to say the age of consent should be continued to be increased from time to time?

A. Yes.

Q. But don't you think that this constant tinkering with the law of the land creates a sort of instability in the minds of the people?

A. I do not think the effect of that will be so serious as the effect of a sudden raising of the age. People will get accustomed to it by degrees. If we raise it to 16 at once there will be much opposition.

Q. It will take a very long time to know the effect of the change of the law and if such a change takes place before the period of one change is over will there be no agitation?

A. But the changes are not to be made every year. The interval between each change should be 10 years. I have suggested 14 or 15 now and after 10 years it should be 15 or 16.

Q. You say that crimes of rape and seduction are fairly frequent in this part of the country. I want to know the ages of the girls who are raped?

A. It varies from so low as 7 years to 13--14.

Q. Can you tell me whether more cases take place after 13 or below 13?

A. As you go up the number is greater.

Q. Do you notice any change after the amendment of 1925?

A. I do not think that amendment has yet effected any material change.

Q. Because the time passed is very short or the change made is very insignificant?

A. For both these reasons.

Q. As regards punishment in the case of first offence you have suggested warning. If instead of warning bonds are taken from the boy, if he is over 18, and from the parents of the boy and girl if the boy is below 18 to keep the boy and the girl separate till the girl reaches the age of discretion, would you like it better as a sort of first punishment?

A. I think so. It would take the place of security that is demanded under Section 562, Criminal Procedure Code.

Q. You say that society has not yet learned to tolerate the post-puberty marriages. Is it so only among the Brahmins or among others also?

A. I was only thinking of Brahmins. As regards others post-puberty marriage is as a rule accepted in the case of Vaishyas but they follow the Brahmins' customs.

Q. Is this custom consciously being broken by the Brahmins however short their number may be?

A. Some of them are consciously breaking the rule and postponing marriage up to 14, 15 or 16.

Q. Are they ostracised by the community?

A. The feeling of such sort is gradually going down. Orthodox sections do not like it but I do not think they mind it.

Q. Those who break it are not given any social punishment?

A. No.

Q. To that extent people tolerate it?

A. Yes, they connive at it.

Q. In paragraph 3 you have said that the only way in which such cases can be detected and dealt with seems to be by constituting a tribunal other than the ordinary tribunal for dealing with such cases, the tribunal consisting of respectable men and women of the locality whether officials or otherwise who would be able to deal with such cases to produce a moral effect. Do you think that moral effect will be produced?

A. Yes, if you give special treatment to the accused and try the case in camera and let him off with a warning.

Q. You think that will induce more people to come to such courts and bring cases?

A. Yes.

Q. Were all these 50 cases which you have said you tried extramarital cases?

A. Yes.

Q. Why do you think the objects of these two legislations—the age of consent and the marriage legislation—are entirely different?

A. What I meant to say was that the manner in which legislation in the one case could be achieved was different from the manner in which this object is achieved in the other. The object is of course the same.

Mr. Mitra: In paragraph 5 you say that the age of puberty is considerably higher in the case of labouring classes. Among Brahmans it is lower than among other caste Hindus. Among Brahmans whether he is well-to-do or not the age of puberty is lower—can you tell us any reason for this?

A. Brahman girls do not go out into the fields. They are confined to their houses and do only the household work.

Q. May it be attributed to early marriages among the Brahmans?

A. There may be some effect of early marriages also.

Q. You say there are Sastrie injunctions about marriages but not about consummation. Is that the view of the orthodox people themselves?

A. Yes.

Q. Do you think these injunctions are recommendatory or are they mandatory?

A. They are believed to be mandatory but I find they are not mandatory. I think they are recommendatory.

Q. According to the orthodox people's view a girl should be married at 8, 9 or 10 and in Manu there is a provision that when the girl attains puberty and 30 monthly courses pass, then they can choose their own husbands. It says that they are not mandatory?

A. I regard them recommendatory.

Mr. Theobald Blomfield: In reply to question 16 I understand from your reply that in your opinion women feel in this matter more than men. May I take it that women would like the age to be raised to 15?

A. I do not think they have any definite view as to the limit of the age but they are more alive to the evil of early marriage.

Q. I think they would like an age when the girl may be free from all kinds of injuries?

A. Yes. Their general desire is that it should be postponed.

Q. May I take it that that is the view of the orthodox communities also?

A. Yes, mothers for instance are not very favourable towards early consummation.

Q. May I understand that fixing of a higher age of consent is always conducive to the growth of increasing the marriageable age?

A. It must have some effect on the postponement of marriage as well.

Q. The idea underlying this sort of legislation is that immature girls should be protected from all possible injury and the medical men are agreed that before 16 cases will be attended with injury. Don't you think the age should be raised to 16 instead of to 14?

A. That is the right thing.

Q. If this is the right thing why not do it now rather than postpone it to a later date?

A. Sentiments cannot be reconciled. I would depend upon slow stages and gradual spread of education and would not suddenly jump to the ideal limit.

Q. May I understand that for 20 years you would bear that girls should continue to be injured by husbands and the puny race of Indians should be multiplied?

A. I think in future the rate of improvement would be quicker than it has been in the past.

Q. Suppose the age is raised to 16 do you think that the number of cases coming to light will be more than when it is raised to 14 or it will be the same?

A. I do not think it will make any difference.

Q. So that if the age is raised even to 16 there will be no difficulty in having the same number of cases as when the age is raised to 14?

A. Yes, but people will like 14 better than 16.

Q. Barring some grumblings or perhaps protest meetings will there be any other effect?

A. No.

Q. You realise that the fear of punishment is such that it keeps the law abiding people from breaking the law.

A. I know cases in which people will be prepared to take some risk. Some people will do it on the ground of religion and some on the ground of custom.

Q. May I take it that even fixing the age of 14 will go against custom and religion of the people?

A. I think if we fix it at 14 they will be compromised.

Q. As regards punishment you suggest simple imprisonment or fine which may extend to 6 months.

A. That is my considered opinion.

Q. Would you not confine it to fines only?

A. The matter should be left to the discretion of the court.

Q. The provision of the law will be more respected if you make it rigorous or simple according to the discretion of the court?

A. In any case I do not want rigorous imprisonment.

Q. What are your reasons?

A. A husband committing the offence upon his wife should be treated entirely different from a stranger.

Q. In the case of stranger it is 10 years while in the case of husband you are giving 6 months and Rs. 100?

A. I do not think the addition of rigorous imprisonment will add to the deterrent effect.

Q. You have said that cases that will come to court and generally speaking people will also be on the side of the accused because they will consider him guilty of a technical offence. So unless you make a provision for getting a report of these cases you will not succeed in your object. Would you agree to place an obligation on every person as in the case of Section 302 to report these cases?

A. At present I would only work with the suggestions that I have made.

Q. At present there are hardly any social reform organisations in any part of the country. Are there any in rural areas?

A. No.

Q. And it would not be before 10—15 years that you will be able to form these organisations?

A. Yes.

Q. Would you then place the obligation on everybody to report these cases?

A. I would try it for 10 years and then consider the duties of citizens in the matter of social and domestic affairs. I would not do it now.

Mr. Shah Nawaz: You say that the minimum age of marriage should be fixed at 14 by legislation. Would that view be acceptable to the Brahmans as a whole?

A. The advanced section would accept it but not the less advanced section.

Q. What do you think is the percentage of advanced section?

A. I think 50 per cent. would be a fair estimate.

Q. Would the other 50 per cent. acquiesce in it?

A. They would not acquiesce in it willingly.

Q. What will they do; will they disobey?

A. They would try to perform pre-puberty marriages and incur the penalty.

Q. Would they do it deliberately?

A. In the beginning they may do so deliberately but gradually they will get accustomed to it in a year or two.

Q. You say that the age of consent should be fixed at 14 or 15?

A. Preferably 15. That is my personal opinion.

Q. Do you think 15 is quite enough?

A. That is in deference to sentiments but personally I would go up to 16.

Mr. Kadri: In the case of extra-marital relations would you go up to 18?

A. I should be satisfied with 16.

Q. In paragraph 6 you say that the aim of the law should be to protect girls from the consequences of acts which they cannot be deemed to have validly consented to in the sphere of sexual relations upon the same principles and to the same extent as it protects them from the effect of transactions involving civil rights. According to law a girl is minor up to 18 and she cannot enter into civil contract. Would you extend the limit to 18 in extra-marital relations?

A. The minority is fixed for the purpose civil rights. My opinion is that ordinarily the law should be the same for both. In the case of age of consent I should be prepared for 18 as well.

Q. You seem to suggest 2 kinds of tribunals for the trial of these offences —one, you want to have societies with summary powers for trying cases of rape in extra-marital cases and you would also have matrimonial courts for offences within marital relations. Would you rather not leave the offences of rape to be tried by ordinary courts?

A. The present powers of the courts may be retained but village panchayats may be given additional special powers to deal with cases of trivial character.

Q. When the accused is a stranger who has raped a girl why do you think it is a trivial offence?

A. Many cases are those committed as a rule in the field by cow boys in a stray fashion. In such cases I think the village panchayat or the village headman should deal with them.

Q. As a public prosecutor is it your experience that generally in extra-marital cases the sentence awarded is not less than 3 years?

A. Yes, it is so but the chances of conviction are so few because it is very difficult to prove these rape cases.

Q. If convictions are so difficult would you delegate such cases to be tried by panchayats consisting of laymen with summary powers?

A. They will be able to ascertain the truth on the spot which the courts with all the elaborate machinery have failed to do and real offenders go scot free.

Chairman: Do you want them to investigate or try cases?

A. I want the panchayat to investigate cases.

Mr. Kadri: Then those summary powers are those of investigation and not of trial?

A. Yes.

Q. Are you satisfied with the registration of births and deaths. Do you think the registers are accurately kept?

A. They are fairly accurate.

Q. Can you suggest any improvement?

A. There should be a provision by the higher officers that entries are correctly made.

Q. Is it not necessary to make it obligatory on the parents to report births and deaths in their families and any failures may be punished?

A. It would help the particular case that we are considering better if there is some such penal provision, but I doubt whether the rural parts are prepared for this.

Mr. Kanhaiya Lal: You say that rural panchayats may be given powers of investigation in extra-marital cases; but not of trial?

A. Yes.

Q. Don't you think there is a danger of evidence being suppressed or done away with?

A. Attempts might be made by the interested people to hush up but power should be given in exceptional cases where the panchayats are considered to be strong.

Q. Why not leave the ordinary courts and the ordinary police to investigate into extra-marital cases?

A. In cases of rape the interests of the girl ravished are to be considered. If this case comes to the court and the girl is found to have been ravished there is some difficulty about her marriage but if the village panchayat is able to take up the matter and deal with it by way of investigation, I think the people will not attach much importance to it.

Q. The police takes care about the witnesses not being unperished with. That care and attention will be lost if the enquiry is given to the village panchayats.

A. My experience is that rape cases have not been very well handled by the police.

Q. Supposing there is a law fixing the age of consent, would you recommend that all marriages should be reported to a prescribed authority, giving the names of the marrying parties and their ages, so that a record might be kept of these marriages in order to facilitate future action?

A. It will be eminently helpful on the question of age. But if the birth registers are properly maintained I do not think this register will be absolutely necessary. Further there is the chance of the correct age not being mentioned in such registers whereas the birth register will be more reliable.

Q. You are probably aware that a girl might be born in Bondray and be married in Madras, and in such cases there might be some difficulty in ascertaining the age of the girl unless you know the place and the year in which she was born. You will also have to consult huge records spread over the whole country.

A. But such cases will be very few. Mostly girls are married round about the same place.

Q. Would it not be easier to ascertain the age from the marriage registers?

A. That would not be as reliable as the birth register.

Q. Supposing a verification is required that the statement is correct and a marriage certificate is also issued, would that solve the difficulty?

A. I do not think people will be slow to give a false age simply because of the verification.

Q. Will there not be risk of two prosecutions, one for a false statement and the other for trying to suppress a crime?

A. I think it will be too complicated. We cannot understand its full implications now as we are thinking of a matter upon which there is no law at present.

Q. Will it be more complicated than the existing system of births and deaths?

A. But registration of births and deaths is already there.

Q. Will it not be simpler because marriages are fewer?

A. I think it will be difficult because people not being accustomed to these reports will not like it.

Written Statement, dated the 10th August 1928, of Mrs. MALATI PATWARDHAN, Honorary General Secretary, Women's Indian Association, Adyar, Madras.

1. There is general dissatisfaction amongst the educated and enlightened men and women, specially women who have experienced the tragedy of early marriage and enforced motherhood with regard to the age of consent that exists in India to-day. Advance in education, facility for travel, awakening of women, social intercourse are helping to arouse and awaken the women. Certain existing evils are found to be eating at the very roots of the nation, the chief being the system of child marriage, as well as the age of consent being so low. Women's meetings all over India have passed resolutions believing that the age of marriage should be raised to 16 years which means that the age of consent must be raised to 16 years.

2. In my opinion there is not one circumstance which justifies retaining the law as it is. On the other hand, there is every reason for an advance on the present law. Most men and women and even boys and girls, understand the significance of this law, that any man may rape a girl at and beyond 14 years without punishment. It is because of our ignorance, the girls not knowing or realising the freedom and joy of youth, that they have been kept backward. Explain to a girl the laws of nature, her glorious function in life, educate her and place before her a high ideal then the girl will, of her own accord, say "certainly raise the age to 16 or beyond, I am too young at 13 and 14 to understand or to know the full significance of these things." Most enlightened men and all women in their hearts, believe that 14 years outside marriage and 13 within marriage is too low an age. A girl of 13 must not be burdened with motherhood. She is unfit physically emotionally and mentally.

3. I do not know if crimes of seduction or rape are frequent in my part of the country, as few cases seem to come before the courts. The amendment made in the law in 1925 was too insignificant to have any appreciable effect. The only effective measure is to raise the age of marriage to 16 years and make the age of consent outside marriage to 18 years; also to bring into force the existing law of registering births into greater effect.

4. I do not think that it has been effective at all. Since the consummation of marriage generally takes place almost immediately after the girl has attained puberty, which may be between the ages of 10 and 13 the law is ignored. I think that the only remedy to get this law into force is by raising the age of marriage to the same as the age of consent, which I personally believe should be 16 years.

(i) Merely postponing the consummation of marriage to even 16 will not be effective as even such a low age of 13 is proved not to have been. Once a girl is married it is almost impossible to keep the husband away from the girl. The mother's eyes are not kept from the law. Especially it is when the girl goes away from the parents to the husband's house and there she is one more worker.

(ii) Stimulating public opinion rather than forcing the law upon them is the right solution, but India is so orthodox and tradition-bound that we have to force by legislation the abolition of existing evil customs as well as persuade by social propaganda.

(iii) The only effective remedy to make this law, which is to protect young girls against seduction or rape, is by raising the age of marriage to 16 years by legislation. The law must go in advance of public opinion concerning such evils as child marriage.

5. The usual age at which a girl attains puberty is between 10 and 13 years in families and communities, that reside in crowded towns and where early marriage is customary. Among the villagers and labouring classes and communities where early marriage is not customary, the ages when girls attain puberty are between 12 and 15 years.

6. (i) There are a few cases.

(ii) With most girls cohabitation takes place immediately after puberty.

(iii) Yes. If the girl has attained puberty before she is 13 years of age.

There may be some but I do not personally know if any such cases come before courts.

7. I do not know if consummation of marriage is attributed to religious injunctions, though child marriage is said to be so by the orthodox, but the shastras themselves differ as to the ages in the various books. Even the orthodox section of India is willing to raise the age of consent to 16 though they are against raising the age of marriage.

8. Yes. The "Garbhadan" ceremony is usually performed immediately or soon after the girl has attained puberty.

9. No. Certainly not. The girl when she attains puberty is just awakening towards maturity and is far from realising or understanding her responsibilities. Sixteen and beyond must be the age which in my opinion a girl is nearing physical development to justify marriage without injury to her own health and that of her progeny.

10. This depends entirely on the girl's environment, education and physical development but I should imagine that girls in India would be intelligent enough to realise the consequences of cohabitation at the age of about 16 to 18 years.

11. Generally cohabitation takes place immediately or soon after puberty which is certainly before the girl is fully developed. This is bound to be injurious to her health and her progeny. There are innumerable cases to justify this. Cases of tuberculosis, abortions, still-born children, undeveloped children and the girls that die in confinement—the shock that is caused to the mind and body of the girls—are the results of which I have personal knowledge—are due entirely to the custom of early marriage and the age of consent being low. Young unmarried girls are bright, cheerful and healthy while young girls who are married or are mothers when children look careworn and unhappy and undeveloped.

12. Yes. Because the girls and boys at an early age are not physically developed and hence there is weakness. Therefore maternal and infantile mortality are due chiefly to this cause. It certainly results in vitally affecting the intellectual and physical progress of the young generation. The girl has no time for education or physical development before she is married. When motherhood is enforced at such an early age she cannot train or educate her children—she herself needing a mother to look after her.

13. Since 1925 there has been a great agitation and a development of public opinion in this part of the country with regard to the age of consent in the marital and extra-marital cases. Most women, except the very orthodox section, believe that the age of marriage should be raised to 16 and the age of consent outside marriage be 18. Thousands of women have met at meetings and signed resolutions to this effect. The girls themselves believe this. Many young men believe in this also.

14. They do not. But custom and tradition very often are too strong to carry out their convictions into practice.

15. Yes. The age of 13 and 14 is difficult to determine but if it is raised to 16 and 18 it would be easier as the girl is more developed. Registration of births should be strictly enforced and birth certificates should be obtained. Marriages should be registered, as this would help in determining the ages which would help the law regarding the age of consent.

16. If the age is made to 16 and 18, the margin of error in determining the age will be greatly reduced.

17. Yes. The punishments might remain as they are.

18. All procedure of trials of offences within and without marriage should be conducted in camera as the publicity attached to these trials affects the life of the girl, especially trials of cases outside marriage.

19. Since hardly any cases of this offence have appeared in court, registering of births and marriages would help.

20. I believe that the only effective legislation for making the age of consent higher is to fix the minimum age of marriage at 16. It may be that there will be opposition to this though raising the Age of Consent will be approved by most sections. The difficulties so far realised is even keeping within the law of 13 within marriage and 14 outside have not been effective. It is only when the age of marriage is raised to the age of consent, which I believe most emphatically to be 16 within marriage and 18 outside marriage can this law be effective.

21. The ideal condition of social reform is the education of public opinion and not the enforcement of the law, but when it is a question of life and death, as I believe it to be in the case of child motherhood, legislation must be enforced. So I am of opinion that along with educating public opinion by propaganda, legislation also must force the pace in this matter. Those who are tradition bound, or those who in their hearts realise the beneficence of this reform, but yet are afraid of public opinion, will be helped by legislation. The young girls and boys themselves who desire this reform will not be tyrannised over by the elders who are against it.

Oral Evidence of Mrs. MALATI PATWARDHAN, Honorary General Secretary, Women's Indian Association, Adyar, Madras.

(Madras, 19th November 1928.)

Chairman: Are you the General Secretary of the Women's Indian Association?

• A. Yes.

Q. How long have you been so?

A. Since April last.

Q. How long has this Women's Indian Association existed altogether?

A. For about 10 years. It began in 1917. This is the 11th year.

Q. May I take it that this opinion is the representative opinion of the Association and not your personal opinion?

A. It is the opinion of those members who are here in Madras and several other ladies also who are members of our association but are not here were consulted.

Q. It appears that the general trend of your evidence is that you would like to have a law fixing the age of marriage at 16?

A. We would have both the age of marriage and the Age of Consent fixed at 16.

Q. What age would you fix for extra-marital cases?

A. 18.

Q. You would not merely have a law raising the age of consent to 16.

A. Because it is absolutely useless. So far we have had a law fixing the age of consent in marital cases at 13, even that is not very effective.

Q. You have stated that the age of puberty in this part of the country is between 10 and 13. So before they complete 13 most of the girls attain their puberty is that so?

A. 13 or 14. The average is between 10 and 13. I have also said that those who live in towns have it earlier than those who live in villages.

Q. Do you know what is the period allowed here amongst the Brahmins between puberty and consummation?

A. I don't know exactly. In my parts, in Maharashtra Garbhadan takes place immediately after a girl attains puberty.

Mr. Kanhaiya Lal: You are not a permanent resident of this place.

A. No. I have been here for the last 6 or 7 years.

Q. By reason of marriage?

A. We chose to live here, not by marriage.

Chairman: So when does consummation take place?

A. The ladies here say that the ceremony of consummation takes place within a year.

Q. Do you personally know at what age consummation takes place amongst the Brahmin community?

A. It is within a year.

Q. That is puberty may arrive at 13 and within a year consummation takes place.

A. It may arrive at 10.

Q. You say within a year consummation takes place.

A. Yes.

Q. Not exceeding a year.

A. Generally not.

Q. Have you known cases of girl mothers at 13, 14 or 15?

A. Yes.

Q. Do you know many such cases?

A. Not many, I know a few.

Q. Have you had occasion to move amongst the Brahmin community here?

A. I had.

Q. During the last two or three years how many cases of girl mothers below 15 you have come across?

A. I have only heard of them.

Q. How many?

A. About 9 or 10.

Q. Have you not personally seen them?

A. Two or three I have seen.

Q. That is not good enough to judge of the general condition of the girls?

A. Well, we can. Can't we judge if we see young girls carrying babies in the streets? I have seen hundreds of girls in streets carrying babies in their arms and those girls are not more than 14 or 15. We get crowds of women at our meetings who have seen the effect of early motherhood.

Q. You have judged those girls to be under 15.

A. Yes.

Q. Are you in a position to say what is the general condition of such girls or their babies?

A. Physically, of course, I don't think, they are very strong. They have too many worries at such an early age of looking after the child, of looking after the husband, of looking after the household. All this is not very nice for young girls. All that means a very bad strain. Among the labouring classes she has to earn her living and help in the maintenance of the household.

Q. Have you had cases among the orthodox ladies of the Brahmin community here?

A. A few.

Q. Are you in a position to say what the orthodox Brahmin ladies feel on the matter?

A. In a way, yes.

Q. What do they think?

A. When they see the great suffering caused due to not having a law fixing the age of marriage they only advocate such a measure. When they see their daughters suffering they only wish that motherhood would not come early upon them and yet they are so bound by their religion, superstition and what the neighbours would say that they have not the courage to carry out their convictions. We have had so many meetings for this child marriage bill all over India, and we have passed resolutions unanimously at hundreds of meetings that the age should be raised to 16.

Q. But were the orthodox ladies of the Brahmins here also represented?

A. Yes. Of course we had another set of women in Madras who held meetings against the Bill, but those were very few.

Q. The majority of women in Madras do believe that the age should be raised?

A. Yes.

Q. At any of these meetings did any orthodox lady express herself?

A. Yes. I will tell you of one. She was a Chetty lady.

Q. Are there any early marriages among the Chetties?

A. They are often narrower than the Brahmins.

Q. Are they?

A. In some respects. They marry their girls very young. This lady was telling me that she would not like the marriage to be late. I asked her, why? The answer was that she would be ostracised and that her relations would throw her out of their fold. But when she was asked what did she feel personally without any regard to the relations, she said that the age should certainly be raised. When we discuss this and we ask these ladies what they really feel they are afraid to give their opinion. That is the whole thing.

Q. You think that the law fixing the age of marriage would strengthen the hands of those people who feel like that?

A. I think, it will. Because those who believe in raising the marriage age would naturally have the law on their side and the orthodox will feel their strength. The law will strengthen the hands of even those who want to marry late but cannot because of their relations.

Q. Have you had any occasion to think over the matter of permitting marriages at any age as at present and yet effectually prolonging the period of consummation to 16?

A. I don't think it will work. I am almost sure of it.

Q. Has that matter been discussed and thought of?

A. Yes.

Q. Have you thought of any possible ways of reconciling the orthodox view to the progressive view?

A. Yes, we have analysed that. It is almost impossible when once a boy and a girl are married to keep them separate. When you marry you give a sort of consent and then it does not seem to be fair on the young couple to bind them together and say that they must not come together.

Q. Supposing there is the law of consent only and no marriage law and the age as you say is fixed at 16, don't you think automatically so many cases of young girls becoming mothers below 16 would be discovered? When a girl gets a baby at the end of the 13th or the beginning of 14th it means that the law has been broken.

A. But do such cases come to court?

Q. We understand that these cases of girl mothers at 13 must necessarily be very very few.

A. Even those few do not come to the court.

Q. But when the age is raised to 16 the overt results will be so many that attention would be directed towards them. Do not you think so?

A. I think it will be very difficult and it is not fair both on the boy and the girl.

Q. Have you any idea that the law standing at 13 is broken?

A. Yes, in many cases it is.

Q. Have you reason to think that there are many cases amongst the Brahmins?

A. Yes. Since the consummation ceremony takes place within a year of the attainment of puberty, it naturally follows that the law is broken.

Q. But that may be when a girl is 14.

A. Or it may be when she is 10.

Q. Are there many cases of girl mothers below 13?

A. I don't think. Though the girl and the boy may be living together yet the girl may not be a mother. That is what we should consider.

Mr. Kanhaiya Lal: You have said in your answers that the orthodox section of the community will be willing to accept 16. Do you really think that they will accept it?

A. I think so, because there are no shastric laws that I have heard of. I asked a few people and they said that there is no shastric injunction which enjoins consummation at an early age.

Q. It is said that they are opposed to any legislation fixing the age of marriage after puberty and some say that it may be fixed at 12 and others say that it may be fixed at 14, but you recommend that the age of marriage should be fixed at 16.

A. Or beyond.

Q. In view of that opposition of the orthodox community would you be satisfied if the age of marriage is fixed at 14 and the age of consummation at 16?

A. No. My opinion is that 14 is too young for girls to marry.

Q. In the present circumstances of the country is it possible to enforce any higher age of marriage and any higher age of consent?

A. It may be a step towards our aim which is 16.

Q. You say there should be no difference between the age of marriage and the age of consent, as that would be unfair to the boy and the girl. Would not the boy and the girl both be receiving education and be occupied with other things while they are below 16?

A. What I feel is that they will not be able to keep themselves separate.

Q. The girl may be living with her parents and boy may be living with his parents.

A. It is not the custom. The girl is sent to the house of the husband immediately.

Q. But we have heard of the 'Garbhadan' ceremony which takes place when the girl has attained puberty, and till then the couple do not meet. Is it not possible to keep them separate by postponing the 'Garbhadan' ceremony and also by keeping them occupied in education?

A. It is not possible to keep them separate that way. When a girl is married her whole outlook is changed. As a student she has nothing beyond her studies. When she is married she is not free. I know of a case where a girl was asked to come to some meeting but she could not because her husband's people would not like it. There is always the 'husband's people'. Whatever they consider right has to be carried out by the parents of the girl, even though she may be living in the house of her parents.

Q. But is there any ceremony connected with her going to the parents-in-law's house?

A. No ceremony takes place.

Q. In some provinces 'gauna' is observed and till then the girl is effectively kept away from the husband and nobody ever complains of any unfairness either towards the boy or towards the girl.

A. But is she educated and is she allowed to complain?

Q. There is no audible complaint.

A. There are, I think, complaints and it is the girls who complain themselves.

Q. I mean it is possible to keep them separate by the help of the Gauna or Garbhadan ceremony for sometime. Would you not recommend 14 in view of these difficulties?

A. I would say if 16 cannot be managed then 14 will have to do. I don't agree with it, of course.

Q. And it may be worked to a reasonable extent.

A. So far as circumstances permit, but it is difficult.

Q. There is another complaint that the weakness of the progeny is largely due to frequency of child-births. Can anything be done in that direction?

A. Education is the only remedy.

Mr. Kudri: Some of the orthodox witnesses say that if you leave the girls unmarried till they are 16 or more there is a danger of their going wrong. What do you think?

A. That is absolutely false. I do not know on what grounds they say so.

Q. Their view is that as soon a girl attains puberty it means there is the desire for sexual intercourse.

A. It is not true.

Q. Is it because of the bad habit of having early marriage that a girl attains puberty earlier?

A. That may be. Her instinct forces are aroused because of the talk of marriage at an early age.

Mr. Shah Nawaz: What is the total membership of your association?

A. About 3,000.

Q. Are there any high caste women also in your association?

A. By high caste you mean Brahmins, etc.* *

Q. Yes.

A. There is a large number of high caste women.

Q. Is the view expressed by you a representative view?

A. I expect it to be so. There may be a few who may differ a bit. I have gathered that they are willing to raise the age to 16. It is based on resolutions that were passed supporting Sarda's bill and saying that it was not enough. They wanted the age to be fixed at 15 or 16, some at 15 and most at 16.

Q. Was 16 accepted without a dissenting voice?

A. Yes.

Q. Your association is representative of all castes including the Brahmins?

A. Yes.

Q. Are there any Mohammadians as members of your Association?

A. We have.

Q. How many?

A. Very few.

Q. May I understand that the girls do not like to be married before 16?

A. Not, if they know what this system is. It is a very unfair question to ask of a girl who has been brought up under circumstances where marriage is the only thing to be talked of. All her friends, her parents and everybody thinks only of her marriage. If you ask her whether she wants

to be married she may possibly say 'yes', but if you ask the same question from girls who are educated they will say they don't want to marry.

Q. Do girls before 14 resent the marriage?

A. Very often they do not know what it is, how can they resent it? They are so undeveloped. They do not understand marriage at all. They are themselves children and if you ask a baby whether she wants rice or milk she may say that she wants rice.

Q. Do you know of many cases where girls below 13 years are living with their husbands as wives?

A. Yes.

Q. How many instances do you know?

A. Most married girls who are married before they are of age generally begin to live with their husbands when they attain puberty.

Q. Have you come across many cases?

A. Yes.

Mr. Bhargava: Although they are being educated.

A. But often education is not going on.

Mr. Shah Nawaz: And is consummation performed before 13?

A. Consummation is not according to age, it is according to puberty.

Q. You say that the girls arrive at the age of puberty between 10 and 13. Is it generally at 13 or before?

A. Before.

Q. You know of many such cases.

A. My personal opinion was that the age was from 11 to 14 but the orthodox ladies said that it was between 10 and 13.

Q. We were told by a witness, that consummation never takes place before 15 or 16 and that it takes place soon after puberty. Is it so?

A. Perhaps not in his particular family. There can be difference of opinion. Personally I do not know much of Madras Presidency. I have not lived here long.

Mr. Bhargava: Are you of opinion that if we legislate with regard to the minimum age of marriage it would be liked by the women generally?

A. In their hearts, 'yes' though they dare not say openly, because of the male members or even their women friends.

Q. You think that the ladies would like that the marriages be postponed and the girls themselves would like it.

A. Yes.

Q. I understand the difficulty is only with regard to elderly men.

A. The difficulty is with regard to all elderly men and women who are orthodox.

Q. But women would like it.

A. Men would also like it if they think what it is.

Q. Is fear of punishment the only thing?

A. Fear of religion which they call religion is the thing. In the heart of hearts they also like that the age of marriage should be fixed and the age of consent increased.

Q. If there is a law, ostracism will be out of the question. Everybody and anybody will be doing the same thing.

A. Personally I do not believe that we should legislate on social customs. It should be left to public opinion. It should feel that such a law is right. But where it is a question of life and death as I consider this question of marriage to be, we must legislate.

Q. May I take it that opposition or not, there should be legislation?

A. Certainly.

Q. Supposing we cannot have any marriage law, even then are you of opinion that we should have the age of consent law?

A. Yes.

Q. Because in your opinion the age of consent law will have an indirect effect of raising the marriageable age?

A. Yes.

Q. Do you know anything about the condition of child-widows here?

A. I do.

Q. Is it very deplorable?

A. It is.

Q. Is it so deplorable that they would like to have the system of Sutif

A. No.

Q. Is it so bad that they would rather like to die than live that life?

A. Some of them do commit suicide, throw themselves into the well or do some such thing.

Mr. Mitra: Are you Brahmin?

A. I am.

Q. We have been told that the Brahmin girls attain puberty earlier than others. Is it a fact?

A. Well, I would not say, necessarily Brahmin. I think other conditions in the family count. There are some non-Brahmin girls who have come to live in cities and I have found that they have it much earlier than ordinarily.

Q. Do you think that because in Brahmin community marriages take place earlier the girls attain puberty earlier?

A. It may be, I can't say.

Q. Do you think that if the punishment is reduced to fine only and the cases are tried in camera and are made compoundable there is greater likelihood of cases coming to court?

A. Very little. No parent is going to bring his son or daughter-in-law into court. I don't think mere fine will be of much use because it is giving chances to the richer people who have money to pay off the fine and the poor people have to suffer.

Q. You really think that there is no way of making the law effective in marital cases?

A. I just heard of a new point that there may be some kind of bonds of separation. I have not really thought of it seriously.

Mr. Mudaliyar: You have been associated with a number of ladies' meetings called to strengthen the hands of those who are for reform in these matters?

A. Yes.

Q. Have you attended many ladies' meetings where resolutions have been passed supporting the fixing of a minimum age of marriage and making an advance in the age of consent?

A. Yes.

Q. It has been suggested to us that these ladies' meetings are generally convened and attended either by theosophists or social reformers. I want you to tell the Committee from your knowledge of the ladies' meetings who attended these meetings? Will you tell us whether there were any orthodox ladies and ladies who are neither associated with theosophy nor social reform? What was the extent of the support you received from classes other than these two classes?

A. Generally women who attend any kind of meetings are those who have some forward ideas about social reform. You can't expect the very orthodox women to attend any public meeting whether it is to support or not to support any social measure. That only those who are theosophists attend is not

true. There has unfortunately been an idea that the women's association has been a theosophical movement. It has never been and it is not. That most of the members of these meetings are those women who are looking for social reform is true. But we have had certain orthodox women in our meetings as well. This is not so much in Madras but in other provinces and in the Mofussal here we certainly have had orthodox ladies also. For instance, in the Congress Week we had a whole day's proceedings and there resolutions were passed asking for a rise in the age of consent to 16. They were translated into Tamil and Telugu and we had as many as 2,000 women and there were many who were orthodox and who had probably never been out of their houses and they all voted in favour of it.

Q. It has been suggested that at these meetings while a few may be eager about reform a large majority merely go to see the 'tamasha' and do not really take any intelligent interest in the proceedings. I want you to tell the Committee whether that has been your experience?

A. It may be.

Q. Do you think it can equally be said of any meeting where men attend in preponderating numbers?

A. I do. All sorts of men go to the Congress but how many of those really follow all the resolutions that they have passed.

Q. You think it is more true of men's meetings than women's meetings? Do you think women are more interested than men?

A. Women are much more interested, because it affects them. Some of them do not know what they are actually voting for. We translate the resolution in different languages and if they do not listen to us what are we to do and they wish to vote.

Q. I take it that the position of your society is that you really want a marriage law fixing the age for marriage at 16.

A. I believe nothing short of it will be really effectual.

Q. But if for any reason it is not possible to go as far as you would like to go then would you accept as an inevitable alternative that the age of marriage may be fixed at 14 and the age of consent at 16?

A. Since there is no other help. We will go on agitating till 16 is reached.

Q. As regards punishment, it has been suggested, particularly by ladies in other provinces, that giving any severe punishment to the husband will be very unfair, that we will in fact be imposing a double penalty on the girl. We bring about her ruin by passing any severe sentence on the husband instead of protecting her. Would you confine the punishment merely to fine?

A. We have not considered the punishment question because very few of us could find any solution of it which could satisfy all of us. This is a fact that merely punishing the husband is very difficult on the girl. It is not her fault and yet she has to suffer for it. We say that the parents should be punished for the marriage of boys and girl below a certain age.

Q. Is that with reference to consummation also?

A. Yes. By allowing them to marry they give sanction to consent.

Q. Would you be agreeable to impose any penalty on the parents who bring about consummation knowingly?

A. Yes. Indirectly they are responsible because they have allowed them to marry.

Q. But you realise you cannot punish them for the marriage itself.

A. You can have a different punishment where they know about consummation and where they do not know about it. But they are indirectly responsible. But they must be punished anyhow.

Mrs. Nehru: You have said in your statement in paragraph 6 that you know of a few cases of consummation before the attainment of puberty. In what class of people have these cases occurred?

A. I have only heard this. Somebody told me, in our meeting when we were discussing that there are some villages in the Telegu districts where this happened. But personally I have no knowledge.

Q. I would like to know whether the social reform organisations existing in the country wherever they do exist and especially women's association can take up this work of making complaints and prosecuting these cases?

A. I think individuals you will find but whether the association as a whole will be willing to do it has to be considered by the association. There may be an orthodox section which may not like such a thing and they naturally want to keep the orthodox section as much as possible with them. If we start prosecuting like this, immediately our whole society may go to ruin, although personally I would be willing to do such a thing.

Q. Do you think that with the strength of the association behind you, in spite of that orthodox section, you can carry on the work?

A. With the help of Government we can. If it is laid down as a duty they can do it.

Q. In your statement you have said that you don't want any change in the punishment provided at present. The punishment provided for at present below 12 is transportation for life or 10 years rigorous imprisonment. Since you take the view that it is unfair to ask the boy not to go near the girl even after marriage, would you like the punishment to be lightened?

A. The crime in both cases is the same, but when marriage takes place there is a sort of license and the punishment should be less.

Q. Would you lighten the punishment irrespective of age?

A. Under 12 it should be as it is. It may be lightened above 12.

Q. Has your association thought of any means by which this law could be made effective?

A. This registration of births and also of marriages should be made compulsory.

Q. But that by itself cannot make the law effective.

A. When there is the birth register the correct age can be found out and as there will be registration of marriages also the age at the time of marriage can be found out and the crime detected. The marriage certificate and the birth certificate can be compared.

Q. What is that marriage certificate you are referring to? Do you want a license for the marriage?

A. Yes.

Q. Is there a very large number of such people who tyrannise over their young boys and girls? You have referred to that in your answer to question No. 21.

A. I think there are many.

Q. Both among Brahmins and non-Brahmins.

A. Yes. Non-Brahmins are inclined to copy the Brahmins.

Mr. Mudaliar: Even now-a-days?

A. I think so.

Mrs. Nehru: Is there a large number of elderly men of say 35 or 40 marrying young girls of 12 or 13?

A. Quite a number, I believe.

Q. What number would you put it at say in a year?

A. It is very difficult to say.

Q. Can you say out of a hundred marriages how many would be like this?

A. Second marriages that take place are generally marriages of grown up persons with young girls. Almost 25 per cent. marriages are like that

Oral Evidence of Dewan Bahadur T. RANGACHARIAR, C.I.E., Madras.

(Madras, 19th November 1928.)

Chairman: Are you in favour of legislation at all on any of the two points, fixing the minimum age of marriage and raising the Age of Consent?

A. I am.

Q. Would you like to raise the Age of Consent or fix the age of marriage or would you like to have both?

A. As regards the Age of Consent or "Ritu Shanti" there will be less objection in making it penal than with regard to "Vivah", provided the punishment is not going to degrade the couple. So far as our province is concerned early marriage is confined to a small minority.

Q. In what communities do you have early marriage?

A. The Brahmins, the Komties and a few Muslims too. Out of 44 millions and odd it will be 2 millions and odd or probably it will be 3 millions that resort to this early marriage and the rest marry pretty late. Some people do think it to be fashionable, particularly the Brahmins and the more high caste Hindus, to marry the couple earlier. But it is not a very common habit. They wait till a girl attains puberty. It is not so common among the Brahmins even. It is now going more fashionable, more popular, with the people to postpone the age of wedding till 11 and 12. That is the minimum they are reaching. Although marriages before 10 were very common but that practice is now falling into disuse. They are coming to 12.

Q. 12 or higher?

A. They wait till 12 but after that they begin to get anxious. Social opinion now tolerates it. Even in villages, I know, they would not do it. They also feel the advance of times.

Q. What are the causes? Are they economic?

A. It is the difficulty of getting a suitable bridegroom. It is the crave for graduates and the heavy dowries that are demanded. I think it is pretty common. It is common almost in all the districts except the Telegu districts but even there they are copying the Tamilians.

Q. You say that the Age of Consent would be popular, it would not be resented. What age will you go to?

A. I will go up to 14. Although at one time I held the view that I should not do that, yet I think I am now carrying public opinion with me. I think they will tolerate it.

Q. By fixing the age at 14, will you be carrying public opinion with you?

A. But of course you must make difference between rape as such and rape in marital cases. I would not class the marital offence in the category of rape at all. I want to make it a domestic offence. I would like that a domestic court be established just as we have Children's Court to try these cases.

Q. All the same you would provide some punishment.

A. Certainly. After 13 I would give no imprisonment. Under 13 it should be as it is.

Q. I am certain you realise the underlying principles of this legislation which is to put off maternity as much as possible.

A. Yes.

Q. Looking at it in that light, if we raise the age to 14, do you think it would be effective?

A. At any rate it would prevent lot of premature motherhood. There are many cases which have come to my notice of young girls between 12 and 13, and I think those cases will be stopped.

Q. Do you think that the law will have a deterrent effect?

A. Yes.

Q. But these cases that take place below 12 and 13, how can they be expected to come to light. Would not the law be a dead letter?

A. I should think not, because of the unfortunate factions.

Q. But factions do exist even now.

A. But at 12 or 13 very few cases really occur. I don't think it is so common that the people disobey the law. There may be a few cases.

Q. There will be many more cases when it is 14. Do you think there is any chance of their coming to court?

A. It depends upon the nature of the punishment. Provided you don't make them socially disgraced by sending the husband to jail and you make it a social offence only, I think you will get more cases.

Q. Supposing cases under the law of consent or of marriage are left entirely to be investigated by a special committee, say, of 5 persons of different communities to be appointed and recognised by Government and the courts have nothing to do with it and they make their recommendation to the Magistrate, would that make the law effective?

A. It is ideal. It also comes under my idea of a Domestic Court.

Q. Don't you think that even in domestic courts there will be many troubles, for instance, the proceedings will be open to the public and so on? We understand that the cumulative effect of this is to prevent people from going to courts. Suppose some authority is given under the law to, say, caste panchayats or otherwise, how would you like that idea?

A. I would leave it to caste panchayats, who have simply to recommend it to the Magistrate and the Magistrate will pass orders. I have no objection to this course provided he is a superior Magistrate. But my doubt is only about the efficacy of the procedure.

Q. In the absence of any such procedure can you suggest any methods by which cases may be brought to light?

A. Of course we can give the power to social vigilance societies but that will take a long time to come. These associations don't work properly even now.

Q. Have even the vigilance societies no interest in bringing these cases?

A. No. They have no interest.

Q. Can you suggest any other method?

A. I would suggest the Registrar of Co-operative Societies, or perhaps some such man who goes about the places so that he may enquire and wherever there have been such cases he can bring them to light. If he is a man unconnected with the police and moves with the people in their internal affairs, he can get into touch with such cases and probably make a part of his duty, to report.

Q. With regard to the opposition to the law of marriage like the Sarda's Bill, for instance, is it more a custom or a real regard for Shastric injunction?

A. Of course, it is the inherited habit. I don't think religion has much to do with it but it is the force of habit and force of sentiment.

Q. Besides the Age of Consent can you suggest any method of reconciling the orthodox persons for marriages taking place at any stage and yet effectually preventing consummation?

A. I should say the age 12 will be acceptable for marriage.

Q. Even if we have a marriage law at 12, will it be tolerated?

A. Yes.

Q. But the chief object is to prolong maternity.

A. I think prolonging the Age of Consent is the proper remedy and subject to safeguards it is the only safest remedy.

Q. Is nothing possible to make it more effectual than that?

A. By social education alone it is possible.

Q. Is it a fact that consummation of marriages amongst Brahmins takes place at no less than 15, say, between 15 and 16?

A. I should say in generality of cases it is between 13 and 15. I may say nearer 14 than 15 but not beyond 15.

Q. What is the spacing between the puberty age and the consummation period?

A. One year.

Q. Is it also a question of money demands by the father-in-law's side that the Garbhadan ceremony is postponed?

A. Very seldom.

Q. Why is consummation postponed at all?

A. Generally it is the common understanding.

Q. I believe there is no consciousness of any Shastric injunction in that matter.

A. There are very few people who believe that consummation should take place within 16 days after attaining puberty but that is very rare.

Q. Have you reason to believe that before 16 and preferably before 18 a girl is not fit to be a mother? If this is the medical opinion, will you accept it?

A. I have seen healthy babies even of a lower age.

Q. I am speaking of the ideal condition recognising the fact that before 16 is not the safe age for young motherhood.

A. Although I should like myself 16 I am not speaking on behalf of the community knowing all the practical difficulties of parents. I wouldn't at all suggest that you should go beyond 14 in fixing the Age of Consent between the married couple. I am more concerned with child-widows. In fixing the age for marriage I want to prevent child-widows as much as possible. I think the age of 12 will do.

Q. Is there a large number of child-widows under 15?

A. I should say there is a pretty large number.

Mr. Kanhaiya Lal: Do you think that 14 will be adequate to protect the girl and her progeny?

A. I should think so for the present.

Q. Concrete instances have been brought to our notice where serious injury resulted to the girls who had given birth at the ages of 13 or 14 and even at 15.

A. The same serious injuries may also come after 15 and 16. But still I don't think that such cases are so prevalent as to require a drastic remedy like penalising the marriage.

Q. Do you think that there is a growing physical degeneration of the people?

A. We always think of the golden age when we think of the past. Of course there is a physical degeneration but still we can notice a remarkable improvement and when I see boys in the colleges, certainly there is an improvement in the condition of the boys and I won't say there is a physical degeneration in that sense. They are consciously improving.

Q. Is not early marriage one of the causes of the physical degeneration?

A. I don't think that is the sole cause. The economic condition of the people is the greatest cause.

Q. It has been represented to us that there is very high infant mortality in India owing to the fact that early marriage and early consummation are so common. Is this correct?

A. Infant mortality is due to economic conditions and the surroundings the people live in. It is not due to early marriage of the girl at all. It is due to the poverty of the people.

Q. Is it not one of the causes?

A. May be.

Q. Don't you think that something should be done to remedy this?

A. I agree.

Q. Do you think that 14 would reduce it?

A. I think the mother is underfed. That is the real cause.

Chairman: Can you say that the better classes are underfed?

A. Except that they may have the advantage of the best medical relief; but the mortality will be so high there also as in the case of the poorer classes.

Mr. Kanhaiya Lal: It has been pointed out to us that the mortality of females between the ages of 10 and 15 and between 15 and 20 in some places is double; and in other places 50 per cent. higher than the mortality of the boys of the same age. Would you attribute that to early marriage and early consummation?

A. Unless it is due to childbirth I don't say how you can explain it? They are liable to childbirth or consequential diseases.

Q. It has been further pointed out that babies born of girls of 13, 14 or 15 are below the normal weight, that is to say, 4 and 4½ lbs. whereas babies born of well-developed girls are from 6 to 7 lbs. in weight.

A. Of course it must be true.

Q. Do you think that these evils can be obviated or remedied by fixing the age at 14?

A. I won't say that they can be remedied. Probably you may improve the present state.

Q. Would you recommend 15?

A. I have no objection personally but I don't think you will carry the society with you.

Q. Will there be a strong opposition?

A. I am afraid 15 will create a strong opposition.

Q. Don't you see the difficulties of frequent legislation in a matter like this and would it not be better to start with a reasonable age, despite a certain amount of opposition and see that it is observed?

A. I don't think so because we have to carry public opinion in a matter like this. Nothing is lost by frequent legislation. After all we have lived so many generations and at least one generation will benefit by this. I don't think I will lose much by delaying.

Q. Or by having piecemeal legislation?

A. I don't see any harm in it. For instance, you have legislation at 13. Although there is much opposition to an increase now, it is a sort of education itself that you are getting people to agree to 14 whereas if you make a sudden jump you are creating a system of compulsion.

Q. Suppose we have a law fixing the minimum age of marriage and the age of consummation, would you like a system of registration of marriages to facilitate the detection of the breaches of law?

A. I would wait for education to be spread and moreover registration of marriages people would not like. As a matter of fact even in a poor man's house marriages do take place publicly. It is often a big function so that it is publicly known. The only question is about the age and all that. Very few people know their age. Especially if you go to the villages it is very difficult for you to get the correct age of their children.

Q. Don't you know that horoscopes are compared before the marriage takes place?

A. I am afraid more than 60 per cent. of the population do not resort to horoscopes.

Q. But in the remaining 40 per cent. of the people we shall have the correct ages entered in the register in accordance with the horoscopes?

A. It may be possible.

Q. Can you suggest any other measure for helping the detection of the breaches of the law?

A. I should say the encouragement of social organizations or caste panchayats.

Q. Should these caste panchayats be of a voluntary character or how constituted?

A. May be constituted under some form of law.

Q. Have you got a system of village panchayats in force in this province?

A. Yes, we have got. The system of village panchayats is working pretty effectively.

Q. Would these village panchayats look after these cases and make reports to the proper authorities?

A. Yes, but I would confine these cases to the castes concerned or to the communities concerned.

Q. Will you give these panchayats any criminal jurisdiction also over these cases?

A. No, I would not. They will only have the power of reporting. It is only on their recommendation that the prosecution should take place.

Q. Don't you think that the caste people will have generally some sympathy with the accused husband because the general feeling would be that he is doing all this in exercise of his marital right?

A. Bound to be.

Q. Is it likely then that they will take strong action?

A. After 13, in the case of marital cases I would not advocate much severe action. Make it a crime punishable with fine. As a matter of fact the exposure itself will be a social degradation to them.

Q. Would these panchayats make a real effort to report these cases?

A. I can say that it may not be so effective as one might wish.

Q. Is there not a danger of the evidence disappearing or being suppressed while the report is being awaited?

A. In the communities in which these marriages take place, social opinion doesn't tolerate illicit connection between the husband and the wife, illicit in sense that it is always preceded by a religious ceremony, which cannot take place privately.

Q. Suppose there is a physical injury to the person; the injury disappears by the delay?

A. We have to put up with it.

Q. Would it not be safer to require that all these cases should be investigated by superior officer of the police and no summons or warrant shall be issued against the accused unless the Magistrate is first satisfied by a preliminary enquiry that the prosecution is not *prima facie*, false or malicious?

A. So long you make the case bailable and non-arrestable and the punishment is only fine, I don't mind if the police is allowed to interfere but the case should be made non-cognizable, above 13, provided you have also the caste panchayat to go through. The police will make a report in the first instance and they may contemporaneously refer it to the caste panchayat or to the Magistrate because I want the caste panchayat to be an intermediary between the Magistrate and the Police.

Q. Is the Magistrate not to be allowed to take any action himself?

A. He may refer it to the caste panchayat.

Q. Suppose you require the Magistrate to make a preliminary enquiry for taking all evidence as may be produced by the parties and then refer the case

to a matrimonial court consisting of a Magistrate and two non-officials. Would not that better serve the purpose?

A. It will be better if the Magistrate enquires and makes a report to the matrimonial court. But my opinion is that there will be only very few cases of that sort.

Mr. Kadri: Are you agreeable to the proposal that there should be no interference by the police in case below 13?

A. That is an alternative proposal.

Q. Would you make the offence compoundable in view of the relationship of the husband and wife?

A. Well, it is already compounded. They all put their heads together. I fail to see what is there to compound.

Q. Supposing a complaint is made by a neighbour or by some person, then the Magistrate makes enquiries and sends the case to the court and if it is found that the accused has done a wrong and asks the court to compound, would you not compound the case with the sanction of the court?

A. The court may send him off with a warning if at all required.

Mr. Shah Nawaz: We understand that amongst Brahmins the girls are married before they arrive at the age of puberty. Could you tell me what is the underlying idea of marrying girls before puberty?

A. That is the anxious desire of every parent to get the girl married before she attains the age of puberty because of the social opinion. The social opinion doesn't tolerate the keeping of a girl beyond the age of puberty.

Q. Do they rely on religion or on custom?

A. I know everything is tied by that religion but it is the social custom.

Q. Are you of opinion that the Kshatriyas and Vaishyas marry before puberty?

A. We have very few Kshatriyas here but as a rule the girls are married among them before the age of puberty.

Q. When do the girls attain the age of puberty in those communities in which there are early marriages?

A. Between the ages of 11 and 13. There are very few cases under 11.

Q. Are you still for pre-puberty marriages because you want to fix the age at 12?

A. Personally I am prepared to go to 13. * *

Q. Is it not a rule that boys of 24 should consummate with girls of 12? *

A. It is not so. In the first marriage the difference between the girl and the boy you may put down on an average between 4 and 5 years.

Q. Is that all?

A. Yes.

Q. Don't you think that if we fix the minimum age for marriage at 14 than raising the Age of Consent to 14, it will be more effective?

A. Well: It will be more effective provided you are able to carry out and provided you are prepared to face the breaches of law which will take place.

Q. Suppose we were to penalise the marriages, would the Brahmins dispute that?

A. There may be a few cases. Some of them do believe that they commit a sin for retaining the girl after puberty.

Q. In spite of the fact the majority of them are non-Brahmins, will they not submit to the law?

A. It is a question of mere faith and sentiment but it is not a question of reasoning.

Mr. Bhargava: I understand you to say that you would fix the marriageable age at 12 and that you are personally in favour of 13. Is it correct?

A. Personally I am in favour of 13 but if you want to carry the social opinion, you must have 12.

Q. Suppose it is 13?

A. It may be unpopular.

Q. At 14?

A. It won't be tolerated.

Q. May I know why you differentiate between Brahmins and non-Brahmins?

A. Whether they are Brahmins or non-Brahmins, if the feelings are so strong, respect them, but not, under 12.

Q. Why not?

A. Because it is more humane to prevent it. It is a choice of evils.

Q. We have been told by many doctors that maternity below 16 is necessarily attended with injury either to the mother or the progeny and that I understand is the basic idea behind the Age of Consent Law?

A. As I said already I don't want to express any opinion as regards the medical opinion. No doubt it is desirable to have maternity after 16 but I don't think it is so injurious as people would imagine.

Q. At 14 it is distinctly injurious and where there is an injury that age should not be accepted. Will you therefore agree that it may be raised to 15 or 16?

A. I don't see how it can help you.

Q. Then I take it that at 14 this law will be worked in a reasonable way but at 16 it will not be worked.

A. It will be creating a system of hostility and you will be defeating your object.

Q. May I take it that if the age is raised to 16 cases will come to light?

A. So far as the number of cases are concerned, it will remain exactly the same. If you fix the age of 16 cases of consummation of 14 or under 14 or near 14 will certainly diminish in number by raising the age itself.

Q. I understand that so far as the law abiding portion of the population is concerned, they can be punished if they break the law.

A. Yes, that is one thing but there will be a feeling of resentment in the minds of the people.

Q. But will not the feeling of resentment shortly come down?

A. No, no. On a matter of social condition you will be creating hostility towards the Government and you will be undermining the Government.

Q. Are there cases in which second marriages have taken place, say, fully grown-up people marrying very young girls?

A. I should think so.

Q. In these cases will you be satisfied with fine only? You have been pleased to say that above 13 there should be fine only. This is in the case of a boy-husband and a girl-wife. Do you want the same punishment to be given to people who are fully grown-up and marrying very young girls?

A. I don't see any difference. So long as they can marry, they are still wife and husband. I want the same punishment.

Mr. Mitra: Are the orthodox people against fixing a marriageable age by legislation beyond 12?

A. Yes.

Q. Is it because of social custom or of religious injunction?

A. I am not competent to answer that. Many believe that it is the religion. But my own view is there is no religion about it.

Q. Those who believe in religious injunction I think they will not accept even 12 or 13 years.

A. Those who are so orthodox won't accept anything.

Q. So far as that portion of the orthodox people is concerned who care for religious injunction you think if you fix the age at 12 or 13, it will be against their religion.

A. But I consider it from the point of view of the girl?

Q. What is the ideal age for a girl?

A. I believe in choice by parents.

Q. But choice may be even after 14.

A. Therefore I say you will be reconciling their sentiments.

Q. Would you suggest apart from all these social customs and religious injunctions what should be the ideal age?

A. It will be most desirable if they can marry between 18 for boys and 16 for girls.

Q. In any case will not the extreme orthodox religious people oppose our fixing the age at 12?

A. I say we should please them. We should not offend them unnecessarily.

Q. Will you kindly explain why they marry their girls at an early age?

A. They do so because they are afraid of the puberty. The real fear is the puberty. What they are afraid of is not merely the age. It is more the fear of puberty.

Q. Is that not a customary thing?

A. Yes, but they believe it as religion.

Q. It has been stated to us by previous witnesses that about 20 per cent. girls were married after 12. Have you seen any such marriages taking place?

A. Between 12 and 13 many marriages take place.

Q. And there is no social ex-communication?

A. There is none. Even amongst the orthodox people it takes place and there is no social ex-communication.

Q. What age would you put for extra-marital purposes?

A. I don't mind 16 because a girl is intelligent enough to give a proper consent, after 16.

Q. You are thinking of Madras only or the whole of the country? Don't you think that girls haven't got proper education?

A. What has education got to do with sexual intercourse?

Q. I think you have not understood me. Our experience is that girls of 15 and 16 are seduced. Do you think that girls at 16 attain their maturity of discretion when they can realise the consequences?

A. I should say that girls of 16 attain discretion in our country.

Q. Have you any large experience of the whole of the country or of Madras only?

A. I can't claim so much intimate knowledge of the parts other than Madras. I would say that so far as the girls of 16 are concerned they will certainly be able to take care of themselves.

Q. By taking care you mean they fully realise the consequences of their act.

A. Yes.

Q. Don't you think there will be any serious objection from the orthodox section if you put the age at 18 in extra-marital cases?

A. The orthodox community has nothing to do with it. But I object to it as a citizen.

Q. What are your apprehensions for raising it to 18?

A. Because you want to deprive people of the liberty of action when they are able to protect themselves.

Mr. Mudaliar: In the matter with which we are concerned, do you believe that the Legislature is competent to interfere?

A. I am afraid Mr. Mudaliar that without legislation I don't think we can improve at all and also we will have to wait eternally.

Q. Don't you attach any importance to the objection that is raised that a foreign Government shouldn't be allowed to interfere in matters like these?

A. It is gradually ceasing to be foreign now. That is the advantage we have now.

Q. In any case with the councils as they are constituted now, would you think they are sufficiently representative of Indians to undertake the solution of such questions?

A. I don't say they are sufficiently representative of the orthodox communities.

Q. Still they are sufficiently representative to know the sentiment of the people. I want to know how much importance you attach to such an objection.

A. I can't attach much importance to that. I have thought over it very carefully but I do think that legislation must go hand in hand with education.

Q. You have suggested that 12 should be the age of marriage and 14 of consent. Some witnesses have come forward and told us that there should be no legislation for the age of marriage but that there should be a legislation for the Age of Consent. As against that it has been suggested that the reason why they are anxious to have an Age of Consent Law is because they feel that the law will be ineffective. Do you think it is a fair summing up of the position? Do you think that is the motive?

A. I don't think so.

Q. Do you think that with any system of exemptions provided by law we can advance further than 12?

A. Even then you will be making the position of the authority granting the exemption very invidious.

Mrs. Nehru: Are you in favour of the higher education for women?

A. Yes.

Q. Is it possible for women to have higher education if they are married at 14 or consummated at the age of 14?

A. It depends upon the family circumstances.

Q. Is it possible for a girl-mother or a girl-wife to devote her attention to studies?

A. If people are so advanced as to keep the girls unmarried nobody prevents them from doing so. On the other hand it will be making her a misery afterwards. What is the protection she has later on? What is the suitable match you will get? We don't want whole-life maids in our country.

Q. Even as regards that, is it not fair to allow an educated girl the choice of her husband?

A. I believe from my experience of marriages in our country, that the choice of the parents is very wise?

Q. I am not disputing the wisdom of the choice of the parents. I only say that girls who are educated, always feel that they must have a hand in the selection of their husbands.

A. I have seen girls who have been educated and they like the choice made by their parents.

Q. Don't you think that girls so far have submitted only because a few girls are being educated and their surroundings and environments are such that they have to submit to it but as education grows and they come in contact with western ideas they will most surely demand personal liberty?

A. As practical politics I would not keep it in view.

Q. From the educational point of view I consider the disposal of girls by their parents a great handicap even now. As it is people are breaking the rules and are sending their girls much more to schools than they used to do.

A. Married girls are not sent to school.

Q. To facilitate the case of such married girls as you refer to, would you not put off consummation for 2 years so as to give them time for education?

A. I would encourage it by propaganda work; I would not do it by legislation.

Q. Have you found the propaganda work carried on so far satisfactory?

A. Look at the ignorance, illiteracy and poverty of the country. Is that not more urgent than this interference in social system.

Q. It is really necessary but we cannot compare the two things. We think one is as necessary as the other. In the present state of the country don't you think the progress should be faster than what it is?

A. Yes, that is why I advocate 14.

Q. You would not go beyond that?

A. I would not venture to go beyond that.

Written Statement, dated the 10th August 1928, of Sister R. S. SUBBALAKSHMI, B.A., L.T., Superintendent, Ica House Hostel, Head Mistress, Lady Willingdon Training College, General Secretary, Sri Sarada Ladies Union, Triplicane, Madras.

If the Bill is for raising the age only to 14 there is no law required at all. If it is for raising it at least to 16 then it is worth while all this trouble and fight.

1. Yes, especially among women. We all want the Age of Consent and consummation raised to 16.

2. (2) An advance should be made. Girls are usually sent to their husbands' homes at the age of about 12 and 13. This is certainly very early for consummation leading to early pregnancy. Girls of 12 and 13 are many of them over worked in their husbands' homes. Early pregnancy, the burden of looking after children at such an early age, too much of domestic work all these combined together spoil the health of the girls. Even the age of 14 and 15 is too early for consummation. The Age of Consent should in my opinion be raised to at least 16 if not even higher.

4. I think many people know nothing about the law as to the Age of Consent—Sections 375—376, etc. If parents of girls be aware of the existence of such laws some of them probably would have taken recourse to it. More publicity should be given to laws of this kind that affect the social conditions of the country.

Consummation in South India is mostly after 13 and therefore the amendment of 1925 has evidently not had much use here.

5. 13 and 14. Slightly earlier among the richer and higher classes.

6. (1) Cohabitation before puberty is very very rare. It used to be more common about 20 years ago. It is going out of use now.

(2) Soon after puberty is very common especially among the Brahmans. In most cases, consummation takes place within a month or two after puberty.

(3) Consummation does take place even before 13 years if the girl attains her age at 11 or 12. This happens more among the Brahmans of South India.

7. According to the Hindu Religion, marriage and consummation of marriage should come very late in life. According to the *Ashtama Dharma*, every boy and girl should lead a Brahmachari life during their studentship. If the

Hindu religion be followed to the latter, marriages will be ideal and perfectly satisfactory. All the present troubles have come because we are not following what is laid down in the ancient books.

I don't know the details regarding the punishments, etc., for breaking the *Ashrama Dharma*.

8. Garbhadan coincides with consummation. Only the Garbhadan ceremony Mantras are repeated on the 5th day of the marriage. But the actual consummation takes place only after puberty.

9. No. A girl must complete at least her 16th year to justify consummation without injury to her own health and that of her progeny. Strictly speaking, a girl reaches her maximum intelligence only at about 18 years. That is the age when she is considered to have attained her majority. The mother should not only be a healthy animal, but also a most intelligent human being in order to bring up her children in a healthy and intelligent way.

10. At about 20 years.

11. I have come across plenty of cases especially among the Brahmins. There are quite a number of weak young mothers between 13 and 18 years who suffer from any number of diseases connected with pregnancy, etc. Anæmia and consumption are also very common. In almost all cases, except a very few exceptions, early consummation, etc., have caused injuries both to mothers and babies.

12. This is responsible not only for the high maternal and infantile mortality, but also for the general small and puny size of our race. This is weakening both the mind and body. It is certainly affecting the intellectual and physical progress of the people. On account of this early consummation and early care and responsibility of family, etc., boys and girls do not get sufficient time to complete their studies. As a matter of fact, the pleasures of boyhood and girlhood are completely denied to them. After childhood comes all of a sudden manhood and womanhood to them. Or rather, the responsibilities of grown-up men and women are thrust on them. They are married so soon and that affects not only their physical and mental growth but of their progeny also.

13. The amendment of 1925 has opened the eyes of people to the possibility of Government coming to our help in rooting out this blot in our social custom, after Satee which is now almost an old story. The raising of the Age of Consent or consummation by one or two years only, each time has not been felt in South India where custom itself due to circumstances was already pushing the Age of Consent slightly higher. The time has come, it is felt by many, when the age of consummation and consent should be raised to at least 16.

14. Some certainly do out of ignorance and in many cases due to poverty desirous to be relieved of one number when each girl is sent away to her husband's house.

15. Certainly, if raised at least to 16.

17. Yes. The marital offences may be dealt with more leniently according to circumstances.

18. Yes. The extra-marital offences should be always dealt with by a court. The marital may be decided by the local Panchayats.

20. In my opinion, both should be raised to 16.

21. Personally, I have more faith in the progress of social reform by means of education and social propaganda. But for the mass of the people who are ignorant, laws must be passed. For the welfare of the people, laws are absolutely essential. The few cultured people who know for certain that the present mental and physical degeneration is mostly due to this evil custom, should feel it their duty to bring about laws that would force people to improve. Even though the mass of people may feel that these laws, etc., are unjust at present, in the course of time with the spread of education, especially among women, they will begin to appreciate and abide by these laws willingly.

Oral Evidence of Sister R. S. SUBBALAKSHMI, B.A., L.T., Superintendent, Ice House Hostel, Head Mistress, Lady Willingdon Training College, and General Secretary, Sri Sarada Ladies Union, Triplicane.

(Madras, 20th November 1928.)

Chairman: Are you the Head Mistress of the Lady Willingdon Training College?

A. Yes.

Q. Are you also the Secretary of the Sarada Ladies' Union?

A. Yes.

Q. What is the membership of this Sarada Ladies' Union?

A. There are one hundred members at present and they include ladies of all classes.

Q. Are you a Brahmin yourself?

A. Yes.

Q. To what class of Brahmins do you belong?

A. I belong to the Smarta Brahmin community.

Q. How long have you been Superintendent of this Lady Willingdon Training College?

A. I am the Head Mistress of the College, and I have been in the Department since 1912.

Q. What is the general age of the girls in the college?

A. Our school is of an exceptional character where we have grown-up girls coming to study. We have got girls up to 23 and 24 years of age.

Q. What would be the age of the girls in the school?

A. In the school we have got girls between the ages of 5 and 20. In the Training College we have got girls between the ages of 18 and 25.

Q. Are most of them married or unmarried, or are they widows?

A. Many of them are widows; some of them are married and some of them unmarried.

Q. And what are they trained for?

A. They are trained to become school mistresses.

Q. And what is this Sarada Ladies' Union?

A. It is an institution for social service. There are two classes of girls in that home. One is a class consisting of unmarried girls. There is a tendency now-a-days on account of the dowry system for the parents of the girls to educate their girls in the same way as their boys. So that several parents in the mofussal where they have not got educational facilities send their daughters to Madras for higher education. Yesterday I received two girls of 13 and 11 years in my home, and the father of the girls has decided to postpone their marriage. We take the girls as paying members in the home. The other class of girls are some of them deserted by their husbands. Among the higher castes in many cases the girl is married not for her own sake but for the sake of the dowry and other things. So that in such cases when the mother-in-law or the husband is not satisfied with the dowry they will simply ask the girl to go away. Such girls ranging between the ages of 16 and 25 want to go out and get educated and spend their time by being useful to themselves and to others. We have got quite a number of such girls. Their ages range between 16 to 28 and their object is to better their conditions in the present modern system. There used to be joint family system in old days and widows were kept in their homes by elders and supported. But now-a-days it is not the case, and if at all they are wanted they are treated like servants. Therefore widows are also taken here.

Q. How many such widows have you got here?

A. In all our institutions there are about two hundred girls.

Q. What would be the number of such girls above 16?

A. Above 16, their number would be about 100.

Q. Have you got a widows' home here?

A. Yes; the widows' home is attached to the Lady Willingdon Training School. I am Superintendent of the Hostel also.

Q. How many widows are there in the home?

A. There are at present 95.

Q. What are their ages?

A. Between 10 and 20.

Q. How many of them would be below 16?

A. About 30. The number fluctuates every year.

Q. Do you move among the ladies of the Aiyar and Aiyangar families?

A. I do in connection with the Sarada Ladies' Union. We have got in the home a number of girls belonging to the Aiyar and Aiyangar families. One of the girls in the home is a very rich girl of a noble family who has come there for getting training in social service. She is about 30 years old and she has come there because she does not find much work for her in the family.

Q. What is the age of puberty amongst Brahmins here?

A. It is usually between 11 and 14. The majority of girls attain puberty before 14.

Q. When do you think the Garbhadan ceremony takes place among these girls?

A. Usually soon after puberty.

Q. What is the interval between puberty and consummation?

A. From one or two months to one year.

Q. Are there cases in which it is postponed to more than one year for any particular reasons?

A. Yes; from the health point of view of the girls. If the girls have attained puberty before a certain age the parents of the girls, if they are cultured, want to wait.

Q. Supposing a girl attains puberty when she is 12, is consummation postponed?

A. In many families it is not. But in a few families it is being postponed to one or two years.

Q. We are told that these are postponed because there is wrangling going on about the amount of the dowry. Is that so?

A. It is the case in some cases.

Q. Have you reason to believe that there are many marriages that are consummated before the girl completes 13?

A. Yes. If the girl has attained puberty before that age, consummation takes place at 13.

Q. Therefore consummation at puberty and soon after puberty are the rule. There is no question of age at all. Is that so?

A. Yes.

Q. Would you go so far as to say that in the case of Brahmin girls the marriage is consummated before the girls complete their fifteenth year?

A. It is so in 99 per cent. of the cases.

Q. Would you say that at 14 it is half and at 15 it is half?

A. The number is larger under 14 than under 15.

Q. Do you support the proposition that in some Brahmin families no consummation takes place before the girl is 15 or 16?

A. No. Consummation usually takes place before 15 complete.

Q. Are there cases in which puberty is concealed now-a-days in several families because it is difficult to get husbands and the girls must have pre-puberty marriages?

A. When it is not possible to get a proper bridegroom it is done.

Q. Do you think there are a very large number of such cases?

A. There are quite a number of such cases, especially in the villages where they cannot get a proper bridegroom.

Q. Amongst the women with whom you have moved, do you think there is a class of women who would gladly get their daughters married at a late age if social opinion was not against them?

A. There are quite a number. Of course there have been exceptional cases where they have had the courage to keep their girls unmarried, but there are other people who are bound to custom. These have told me that they would welcome some kind of law which would help them to postpone marriages.

Q. How much do you think would be their number?

A. I think it would be more than 50 per cent.

Q. What would it be barring the advanced section?

A. I mean excluding the advanced section it would be 50 per cent.

Q. Do you want both the Age of Consent Law and the marriage law?

A. Yes.

Q. Do you want that both the age of marriage and the Age of Consent in marital cases should be 16?

A. Yes.

Q. And what would you have for extra-marital cases?

A. I think 18 would be better.

Q. You say that there are cases when consummation takes place before 13. Have you known any cases come to light?

A. I do not think many people know that there are laws to protect them. Many parents are ignorant about the law, and even if they knew they will not have the courage to take the case to court.

Q. Now from your knowledge of the Hindu Society and of the women amongst whom you move, is there any apprehension of girls over 16 going wrong?

A. Never. If they are given education and if they move in a more civilised atmosphere I am not apprehensive of danger.

Q. Do you think it is so both in the cities and in the rural areas?

A. I have not got much experience of rural areas. But I feel that if some kind of facilities are given to them and they are made to move in a better social atmosphere they would not go wrong at all.

Q. Do you think that in the villages and in the cities the care that is taken of elderly girls and widows is about the same, or do they take more care in the villages?

A. I do not think there is much difference. It depends upon the home the girls have, and not upon the place.

Q. Do you think it is possible to put off consummation effectively without having a law for marriage?

A. I think for the purpose of safeguarding the interests of the girls it would be better to prescribe the age of marriage. In the course of time probably at the rate at which we are moving it will be possible for people to realise the evil effects and the age will automatically rise. Then the law will not be necessary at all and it can go.

Mr. Kadri: You say that according to Hindu religion there is *Ashrama Dharma* according to which every boy and girl should lead a *Brahmachari*

life during their studentship. What is the age prescribed for boys and what is the age for girls?

A. It is 25 both for boys and girls. In these matters what applies to mankind applies equally to womankind also. Mr. A. Mahadeva Sastri of Adyar, the Right Honourable Mr. Srinivasa Sastri and Kadalangudi Natasa Sastri have definitely proved that this *Ashrama Dharma* was meant for women as well as for men. The Right Honourable Mr. Sastri has also collected a number of authorities about post-puberty marriage and other things. And Mr. Mahadeva Sastri of Adyar has written a book about *Varasrama Dharma*.

Q. Then do you mean to say that according to Hindu religion girls should remain unmarried up to 25?

A. That is the ideal thing.

Q. In reply to question 10 you say that a girl attains sufficient maturity of understanding to give consent with a realisation of consequences at the age of 20. But at the same time, you say that, you would fix the Age of Consent in extra-marital cases at 18. How do you reconcile the two statements?

A. I do not think that a girl would be as mature in intellect at 18 as when she is at 20. I am suggesting 18 as a minimum and 20 as a maximum. 20 would, however, be a safe thing.

Q. So far as extra-marital cases are concerned, there will be no objection from the orthodox community or others. These are immoral connections and no one will have sympathy with the offenders. Then would you prefer 20?

A. I would prefer 20.

Q. Do you think it is workable at 20?

A. At present I do not think it is workable. That is why I have put down 18. It must depend on the environments.

Q. In para. 13 you suggest that the age of marriage should be raised to 16. Would you not be satisfied with any compromise?

A. We do not want a law fixing the age at 13, 14, or 15, for in actual practice in many families marriages take place at 12 and 13 on account of this dowry system. The parents are forced by economic circumstances to postpone marriages. Therefore I do not think there is any use having a law fixing the age of marriage at 13 or 14 which is already prevailing. If it is 16, it is worthwhile trying it.

Q. Are you aware that in the Assembly the age in Sarda's Bill was agreed to be raised from 12 to 14, but not more?

A. I do not think 14 would be safe. 16 would be better.

Q. In para. 18 you say that marital cases should be decided by local Panchayats. Are there many such Panchayats in this Presidency?

A. In case the offences are petty in nature, they can be decided by the local Panchayats where such exist.

Q. But where there are no Panchayats?

A. They will go to courts.

Q. Would you have matrimonial courts for the trial of these offences, the courts to consist of a judge or magistrate assisted by two non-officials preferably ladies?

A. Yes; I think women will be more interested, and they will know these cases much better.

Mr. Shah Nawaz: You say that the Age of Consent can be raised to 16. Does your Association want the age of marriage to be raised to 16 and do women generally favour 16 as the proper age of marriage?

A. I think the majority of women would prefer it, whether they are Brahmin women or non-Brahmin women. Of course, among non-Brahmins the question will not arise at all.

Q. Would the majority agree to fixing the Age of Consent at 16 and also the age of marriage at 16?

A. I think they would favour it. Most of them are afraid of custom, and if a law is passed they would take that as an excuse for having marriages later.

Q. Will Brahmins favour it?

A. There will be plenty of opposition amongst Brahmin men. But the women are the worst sufferers and they have experience of their children having been married young. One or two such experiences will make them think of postponing the marriages till a later age.

Q. Why should men alone then oppose it?

A. I suppose they are accustomed to it, and probably they feel that if the girls are married later, they will not be quite safe in the meantime. I do not, however, think that that suspicion is well-founded.

Q. What do you think is the underlying idea of marrying girls before puberty?

A. I think it is because they are afraid of the safety of the girls. Supposing there is a boy of 8 and a girl of 10 in a house, the parents will care more for the education of the boy than for the education of the girl. They think that the education of the girl is not necessary, but that she is only meant for household duties.

Q. Would women in rural areas agree with you that the minimum age of marriage and the Age of Consent should be fixed at 16?

A. They won't agree at present. That is why I insist on the law being passed. The moment the law is passed they will get quiet. I think it will serve us an experiment.

Q. In para. 11 you say that you have come across plenty of cases where the girls have suffered on account of early consummation. Can you give us some cases?

A. Within the last 5 years I have come across more than 10 cases of young mothers like that amongst Brahmins.

Q. In what way did they suffer?

A. In their homes the girls are considered to be delicate and young. They are married at 10 or 11 until the time they go to their mother-in-law's house. There is no girlhood at all amongst Brahmins. The mother-in-law treats the daughter-in-law as though she were a woman and the domestic duties are on her shoulders. That naturally affects her health and that results in the derangement of the womb and other complications.

Q. Are these girls usually strong before marriage?

A. They are usually physically and mentally strong and in a position to look after themselves better.

Mr. Bhargava: You say that in South India custom itself due to circumstances was pushing the Age of Consent higher. What are the circumstances you have in your mind?

A. The dowry system is one of the things that has brought about the circumstances. Also the general education and the general civilisation has already brought about the rise in the age of marriage especially in towns.

Q. What is the usual amount of dowry which is paid?

A. It varies very much. Even cooks demand 5 to 6 hundred rupees at the time of marriage.

Q. Are there dowries both at the time of marriage and at the time of consummation?

A. Not only at the time of marriage and consummation, but at other occasions also the husbands demand dowries. There is a ceremony called the Seemantham ceremony which usually takes place at the house of the husband, but the burden of the expense and other things have to be borne by the parents of the bride.

Q. You said that the number of widows in the Training College below the age of 16 were 30. Of these how many are Brahmins?

A. There are two girls, one belonging to the Reddi class and the other belonging to the Kahatriya caste. All the others are Brahmins.

Q. Out of the total number of 200, how many are Brahmins?

A. There are about 16 non-Brahmin girls, and the rest are Brahmins. We have got there only young girls of school-going age who are given scholarship and educated. We have opened the Sarada's Home specially for the non-Brahmins.

Q. Amongst the members of the depressed classes what is the usual marriageable age?

A. I think amongst them marriage age is rather advanced. It is about 17 or 18.

Q. Supposing the law of marriage could not be passed would you then have the Age of Consent in marital cases at 16?

A. Yes.

Q. Supposing the marriage law is not passed, and this law alone is passed, how can we impress upon people that this law should be observed?

A. Whether people want it or not I will have the Age of Consent at 16 and enforce it. It will help people who are afraid of custom to take this as an excuse.

Q. Is there ostracism in actual practice for marrying girls at 14 or 15?

A. No; I know of cases of families where girls have been kept unmarried and they are really being praised, and not looked down upon. Others are only lamenting that they have not got the same courage.

Mr. Mitra: Do you think that if the age of marriage is fixed by legislation it will have an effect on the dowry system here?

A. I think it will gradually put an end to the system. Now that the parents are in a hurry to get their girls married, the dowry is going up. But once the parents say that they are not prepared to marry their daughters at an early age, the dowry system will go.

Q. You say that the mass will feel if the law is introduced. What do you mean?

A. But in course of time they will welcome it. At present there is a feeling against these things, especially amongst the orthodox people. The opposition is more against Government interfering and passing the law.

Mr. Mudaliar: Is the objection to these measures from the men or women?

A. Both men and women. The women are influenced by men.

Q. Would it be true to say that taking the education of the women of this Presidency into consideration women would not object to Government interference unless men were behind it? In other matters relating to politics do these ladies take part in the protests on the ground of Government interference?

A. I do not think they can do so of their own accord. They are not educated enough.

Q. Have they come forward with their opinions in any other political matter? It is only in this matter that they come forward with their objection. Can you say that they would not have come forward with these objections if men were not behind it at all?

A. I cannot say that.

Q. Do you belong to the Theosophical Society?

A. No.

Q. Have you ever declared yourself to be a social reformer?

A. No.

Q. May I take it that in the Widows' Home orthodoxy is observed to some extent?

A. Orthodoxy is observed to satisfy all parties and to that extent only.

Q. May I also take it that you will not wilfully violate anything which orthodoxy sets much store by?

A. They are minor points. We are trying to get a wider and liberal outlook of things.

Q. We have been told that only interested social reformers are in favour of this reform. May I take it that you are neither a social reformer nor a theosophist, but that you represent orthodox opinion?

A. I have myself tried to define orthodoxy but I have not been able to do so.

Q. I mean orthodoxy as it is generally understood. Do people, for instance, look upon you as a heterodox person out to ruin the existing institutions? Do you interdine with people of your community?

A. I have been keeping orthodox customs and we not only interdine, but we intermarry also.

Q. What is your view as regards punishment in these cases?

A. The punishment should not be very severe in these cases. It should be very light to begin with. People are more afraid of the custom, and if there is any law they will be brave enough to postpone marriages.

Q. There are a number of people who by conviction are for an advance, but for the sake of custom are unable to put their conviction to practice, and this will help to them. Is that so?

A. Yes.

Q. You say punishment should not be severe. What is a severe punishment and how would you lighten it?

A. Imprisonment is against self-respect. Fine would be quite sufficient.

Q. Would you have fine in all cases irrespective of the age of the girl or would you have different punishment for the different ages of the girls?

A. I think the punishment should be severe when the girl is below 12 or 13. Above 14 I will have fine only, and below 14 the present punishment may continue.

Q. You have come into contact with a number of girls during the last 45 years. Have you had occasion to find out their opinion as to whether they liked their own marriages at an early age? Amongst the widows especially, looking back on their past do they regret that their lives should have gone on as they have gone on or are they contented with believing that it is their Karma or fate and they cannot help it? Have they got any sense of soreness that they should be segregated for life and that there should have been unnecessary wastage?

A. They do not feel sorry for having become widows. A minority might be feeling that. But 99 per cent. of them do not feel it. Had they remained in their homes they would have certainly repented very much. But in this new environment they feel contented.

Q. But that is only a temporary atmosphere.

A. Then hereafter with the education they have got they will only be going out to work. They will have some recreation and there will be less chance for them to think of their fate.

Q. What is the education you give them?

A. We train them as school teachers. Some of them are trained to become nurses and doctors.

Mrs. Nehru: Have you got Panchayats here?

A. In the villages, but not in cities.

Q. Have you got caste panchayats?

A. Yes.

Q. What is the constitution of these panchayats?

A. I do not know much about them.

Q. What do you mean when you say that marital cases should be tried by the village panchayats?

A. I said that in case the offences were not of a serious nature and if there were panchayats in the places concerned, they might be tried by the panchayats.

Q. Do you think they must be taken to court?

A. It depends upon the seriousness of the offence. If the offences are various they must go to a higher court.

Q. What will you consider a serious offence?

A. If the offences are committed on a young girl, then the punishment should be severe and they should be taken to higher courts. I do not know more about the laws.

Q. Do you think that if the age is increased more cases will come to light?

A. I think so.

Q. What is your reason for thinking so? Do you think that if social reform organisations are given the power to report more cases will come to light?

A. That may be of help.

Q. The difficulty is that even though breaches occur under the present law, nobody is interested to bring such cases to light. Do you think that these social reform organisations will be helped by the public in bringing cases to light?

A. Yes; I think they will be.

Q. Do you think that public spirit has developed to such an extent?

A. If social reform associations take up the work the public will certainly help them. There have been vigilance associations before and they have been helped by the public.

Q. But those vigilance associations had so far directed their attention to extra-marital cases and therefore they were helped by the public. But no one has so far come forward to help them in marital cases.

A. I think if associations like that are started for the purpose they will be helped.

Q. Do you think that in the rural areas and in smaller districts of Madras men and women will be found sufficiently interested to take up this sort of work?

A. I think they will be interested.

Q. Even in the districts will you find such persons?

A. I can't say about the districts. In Madras they will be.

Q. I am asking about the districts of the Presidency. Have you got many women's associations outside Madras?

A. No. Very very few.

Q. But are there some?

A. There are some.

Q. At least in the cities it will be taken up by the associations?

A. If associations are formed I feel they will take sufficient interest in safeguarding the interests of young girls.

Dr. Beadon: Would you give us details of cases that have come to your personal knowledge within the last two or three years where any harm has accrued to the mother or the child on account of early consummation?

A. I know of a case where the girl was married at 10½ or so and the consummation of marriage took place when she was 11. When she went to the husband's house she found no woman and she was the only lady. From 5 in the morning till 10 in the night the girl without any rest had to do all the domestic work and four times she had to go into the hospital for treatment and whenever her father came and wanted her to be treated many people used to raise objection.

Q. What was she suffering from? Was it some womb trouble?

A. On account of heavy work there was the displacement of the womb.

Q. What age was she when she came to the hospital for the first time?

A. I think she was 12 years. The second time she came she was about 13. That was because the husband's people would not allow her to remain in the hospital for a sufficiently long time to get her completely cured.

Q. Did she have a child?

A. She has never had a child.

Q. When did that happen?

A. It is two years ago that she went to the hospital for the first time.

Q. What is her age now?

A. She is about 15 or 16 years, I think.

Q. Have you seen any of these young mothers with children? Could you tell us anything about the children?

A. You see any number of mothers between 14 and 15 who are not able to look after the children. They themselves are so young that they can't keep awake at night with the baby who is crying all the time. She has to do all the domestic work and also to see to the comforts of the husband and all other members of the family. These young mothers in many cases are not allowed to remain sufficiently long in their parents' house to recoup their health. By the time the baby is just one month old the husband's people want the wife to come to their house with the baby and that affects the health both of the mother and the baby. If they allow her to remain for at least a period till the baby is 5 or 6 months then the mother will be in a stronger and healthier condition to come back to the husband's house and take up all the work again.

Q. How many such cases have you seen? • •

A. I have seen many such cases. That seems to be the general rule.

Q. Would it be a large number? Would you put it at more than 10 or 12 in the last two years, say?

A. The number will be more than that.

Q. You spoke just now about the kidnapping of girls. Do you find there is a large amount of kidnapping of school girls in Madras?

A. Not, as far as I know. I have not come across a single case like that.

Q. Do the girls go out alone or is there some elderly lady with them?

A. When they go out for excursion they are properly escorted.

Q. I don't mean excursion. I mean when they go from one place to the other in the city.

A. I don't think a girl does that unless she is being properly escorted by some reliable relation preferably the parents.

Q. Have you met with many cases in which a man of 40 or more has been married to a girl of 12 or 13?

A. Yes. Among the Brahmans.

Q. And also the non-Brahmins?

A. I should say there are many cases because widow re-marriage is not allowed and when a man marries a second or third wife he can have only these young girls of 12 and 13.

Q. Are there many cases?

A. Several cases.

Q. Do they marry because their wives die? Or is it because they get tired of the first wife?

A. Majority is where the wives die.

Q. Would you say that you have seen 5 or 6 cases during the last two years of elderly men marrying very young girls?

A. There are quite a number. I should say 20 or 30 per cent. of the men whose wives die when they are between 40 and 50 go and marry second or third time. I have had many applications from men between 40 and 50 asking for grown-up girls of 20 or 25. If they could get a widow of that age they don't want to marry a girl of 12 or 13. They say all my children are settled down and I can marry if you can recommend any widow.

Q. Are they willing to marry widows?

A. I mean applications have been received, but it is not the custom.

Q. How many widow remarriages have taken place during the last 5 or 6 years?

A. None. There has been one marriage and that was arranged by the girl's parents.

Q. You don't want to offend orthodoxy and that is why you don't take up this work?

A. I feel my work is educational rather than this.

Written Statement, dated the 8th August 1928, of Mr. C. VENGATA-SUBBRAMIAH, High Court Vakil, George Town, Madras.

1. I do not think there is any dissatisfaction now with the state of the Law as to the Age of Consent as contained in Sections 375 and 376 of Penal Code. In my experience I never came across any intelligent educated man either heterodox or orthodox who is dissatisfied with the provisions in the Penal Code.

2. I would retain the law as it is and would suggest its omission altogether. My reasons are—

(a) so far as the girl is concerned it does not matter if it is her husband or a stranger that has connection with her with or without her consent. The husband should not be given any preference.

(b) The sexual intercourse with a girl under 14 years of age is not conducive to the health of the girl and it interferes with the development and growth of the girl.

(c) The average age of attaining puberty among girls in the Madras Presidency is between 13 and 14 and no girl in the interests of her health and growth should be allowed to have intercourse with or without her consent at least one year after she attains puberty.

3. To my knowledge the crimes of seduction or rape are not frequent in the Madras Presidency. On the other hand such cases are very rare. As such cases are very rare the amendment of law in 1925 made no difference in the Madras Presidency.

In the Presidencies in which such cases are frequent, I would suggest greater supervision of the Police and Village heads and they be empowered to report and bring such offenders to book.

4. The amendment of 1925 raising the Age of Consent to 18 years was effective in—

(1) Postponing the consummation of marriage,

- (2) Stimulating public opinion in that direction and in,
- (3) putting off consummation of marriages beyond 13.

In my own case, the parents of the girls did not object when I said I would not have consummation of marriage unless the girls attained the age of 13 years: this happened in 2 cases before the amendment of the act and in one case after the amendment of the act. The three girls belonged to three different districts. My 2nd wife belonged to Salem, 3rd wife belonged to Chingleput and the 4th wife belongs to Nellore. Therefore it can safely be said that public opinion has been stimulated in the proper direction. Orthodox persons are only anxious to have the marriage ceremony performed *before* puberty but do not insist that consummation should be had soon after. They have no objection to wait one or two years for the consummation of the marriage till the girl is properly developed. I know also of some cases where if the girls' parents are poor they thrust their girls on their husbands' families if the latter happen to be rich as soon as possible and the husbands are only too anxious to have the consummation performed as soon as the girl attains puberty. In such cases the amendment of 1925 comes in as a relief to the girls. In the Madras Presidency the amendment of 1925 is sufficient. In the other Presidencies where the amendment of 1925 is violated I would suggest the registration of consummation of girls and boys before some public officer within 48 hours of consummation giving the date of consummation and the ages of the respective parties to the consummation and making it penal for omission of such registration or for giving wrong information in such registration.

5. In the Madras Presidency the usual age at which girls attain puberty is above 12 and below 14 years of age. The age differs in different castes, communities and classes of society.

In the Brahmin caste, girls attain their maturity sooner, say between 12 and 13 years. I have also known instances of Brahmin girls attaining puberty before 12 but that is very rare.

In middle class non-Brahmin castes, girls attain their age between 14 and 15, much later than Brahmin girls.

In the working and labour classes girls attain their age very late after 15 years of age, say between 15 and 16 years.

Further, climate has something to do with the attainment of age; girls in hot climate attain their age sooner than those in cold climate. Girls in Conjeevaram attain their age much sooner than the girls in other places. It is a common saying that if girls do not attain age after completion of 13 years, they should be taken to Conjeevaram Garudotsavam festival and made to live there for a month and then they would attain maturity.

Generally girls in mofussil districts and villages attain their age much later than the girls in Towns and Cities. I should think it is due to good nourishing food, to attending to Cinema shows and dramas and want of physical work in respect of Town girls, whereas village girls have less variety of food, less Tamashas and more physical work and labour. Girls attain puberty in rich classes sooner than in poor classes.

6. Cohabitation is not common in the Madras Presidency either before puberty or soon after puberty, nor before the girl completes 13 years. I do not know of any case that came up to court in which cohabitation is either before puberty or soon after puberty or before the girl completes 18 years. But some cases have come to my knowledge that such things occur occasionally and not very frequently among low Muhammadan classes in the City of Madras.

7. I do not attribute the practice of early consummation of marriage before or at puberty to religious injunction. No religion to my knowledge, and much less Hindu religion, sanctions any age-limit for consummation of marriage. On the other hand Hindu Religion enjoins the betrothal and

marriage ceremony to be performed before the girl attains puberty or at the age of 8 years but no Sastras say the consummation or nuptials should take place at any particular age. In my opinion the circumstances that lead to early consummation of marriage before 13 years of age are some of the following:

- (a) The parents of the girl being poor, their anxiety to send away the girl to her husband's house as early as they can after the girl attains her age in order to see they are saved the maintenance of their girl. This happens especially when the husband's people are rich.
- (b) If the girl happens to be the 2nd wife of her husband, naturally the husband's people are anxious to have the girl in their house and the parents of the girl are only too anxious to get rid of their girl if they are poor.
- (c) If the parents of the girl and boy are of equal status and rank, if it is the first marriage, generally the parents wait till the girl completes her 13th year unless the husband is a wayward youth or has stopped his education, in which case the consummation is made, as they put it, in the interests both of the boy and girl. If it is 2nd marriage of the boy, the husband is anxious to have the girl with him soon after the girl attains her age.
- (d) Generally the husbands by reading many novels and by their experience of the general moral standard of boys and girls both in their community and in other communities, rich or low think that their wives after they attain puberty should not be allowed to stay in their parents' houses one moment longer lest their morals should be corrupted.
- (e) I know of many Hindu graduates and Graduates in law who speak on the platform eloquently and in social reform associations that women must move freely with men and must not have consummation of marriage before 15 or 16 and they are the first not to include their wives under the class women, i.e., they like all other women to be free and move with all but not their wives!

8. The Garbhadanam ceremony is performed generally in the Madras Presidency on the day of the nuptials and a number of persons including relations and friends are fed. This is performed only after the puberty and on the day of consummation of marriage. If both the parents of the girl and the boy are educated in English and hold some decent appointment the consummation ceremony is done away with. The poor classes owing to want of money and poverty also do away with the ceremony.

9. I do not consider that the attainment of puberty is a sufficient indication of physical maturity to justify consummation of marriage and I do consider that the attainment of puberty is a sure sign that the girl ceases to be a girl and is entering into the gates of womanhood and is the first sign of her growing into a woman.

In my opinion it will take complete two years or at least not less than one year and a half in a healthy ordinary girl to make one believe that the girl's physical development may be considered to be enough to justify consummation without injury to her own health and that of her progeny—whether it should be 2 years or 1½ years depends upon each individual constitution and development and her physical stature and appearance.

10. Hindu girls are generally precocious and the girls in Towns and Cities are at the age of 13 competent to give an intelligent consent to cohabitation with a due realization of consequences and at the age of 14 and 15 in the mofussil and villages.

11. In my experience, I came across only one case in the village of Echur in Chingleput District where consummation took place before the girl attained puberty when the girl was of the age of 12 years. I attended that ceremony. They lived well and happy for several years. I know the husband is dead; and the wife is still living. The husband and wife were all right in their health. They have children and none of them is prejudicially affected and there was no injury to her health.

12. I cannot answer the question whether I consider early consummation and early maternity responsible for high maternal and infantile mortality unless the age meant by "early" is mentioned.

If by "early" is meant before 12 or 13 years, then I do consider that early maternity and early consummation are responsible for high maternal and infantile mortality. The mother, if she is a girl mother, certainly gets prematurely old and weak and cannot be expected to have her vitality last longer. But it is not so in the early consummation cases. If the husband takes care that his girl wife does not conceive and if he exercises marital functions only after long intervals, I do not think that the girl's health and vitality would be much affected. If the Hindu ancient ideas, customs and manners are strictly observed, then there is no fear of the girl's health and vitality being affected at all. Those customs and manners are still observed in the villages where English education has not spread and where the people are orthodox and follow their ancient avocations in strict orthodox style.

The manners and customs are these:—

- (a) The girl is under the care and custody of the mother-in-law.
- (b) The girl is not allowed to take her bed with the husband every night.
- (c) On the days when the husband has an oil bath and on the days when the girl has an oil bath, the girl is not allowed to sleep with her husband. Tuesdays and Fridays are the oil bath days for women and Wednesdays and Saturdays are for men. Thus four days are absolutely excluded in a week.
- (d) Amarasya and Pournamai (Full moon) days are also prohibited, i.e., two days in a month.
- (e) Krithika day is prohibited, i.e., one day in a month.
- (f) The three period days of the girl, i.e., 3 days in a month are also excluded.
- (g) The girl is freely sent to the husband and the husband can expect his wife only on 8 days in a month, the other 22 days being prohibited.
- (h) Even during those 8 days if the husband or wife is ill the girl sleeps with her mother-in-law. If Shraddha or any other ceremony falls in those days, those days are also excluded. Thus it will be seen whether there be an early consummation or late consummation, if the cohabitation is restricted only to less than a week in a month, the health and vitality of the girl cannot be affected. But now-a-days the English educated persons have or brook no such restriction and the result is "no grass will grow where the Turk has set his foot" which I studied in one of my texts in History in younger days. That means the health of the girl, whatever be the period of consummation, suffers if taxed often.

13. In my opinion there has been development of public opinion in the educated classes in the Madras Presidency in favour of an extension of the Age of Consent both in marital and extra-marital cases since the amendment of the law in 1925. But this development is not shared by all the educated classes. Especially among the educated Brahmins there are two classes, Orthodox and Heterodox, if I may use the term in contradistinction

to Orthodox. There is no development of opinion among the orthodox Brahmin educated section. They consider any further interference with the Age of Consent interferes with the liberty and religion of the Hindu. But with the other classes, viz., educated Heterodox Brahmins and educated non-Brahmins there is undoubtedly development of public opinion. Even the orthodox educated Brahmin does not object really to the age for consummation being extended but objects to the age of marriage or betrothal being extended further. The uneducated non-Brahmin classes with whom marriage after puberty is common, do not care if the age is extended and the uneducated Brahmin classes generally feel the further extension is an unnecessary interference with their liberty and religion. In any class the really poor and indigent persons feel they must be left alone when they will marry their girls and any further extension interferes with their poverty as they cannot get rid of girls whenever a good opportunity offers for the marriage of their girls. The disposal of girls at such opportunities relieves them of their distressed circumstances.

14. Women in Madras Presidency must be divided into two classes—educated and uneducated in English. The educated class in Madras Presidency is very small and the uneducated class is the greatest majority. Many women are beginning to read and write their vernacular but really educated among them are in a great minority. Except the educated women, the majority of women are very practical. They would like early consummation if there are many girls in their houses and they would oppose early consummation if there is only one or two girls at home because the girls would be of service to them in their houses. They are not sufficiently cultured to give an opinion on the merits of the question at issue.

15. Of course difficulties have been experienced in cases where birth certificates are not available and in some illiterate classes the ages of girls are not remembered. In such cases, when they come to Court, doctors are examined in Courts on both sides and the doctors generally differ and in such cases the benefit of the doubt has to be given to the accused unless the Magistrate feels that he believes one doctor in preference to another. Doctors themselves say in cross-examination they can only give approximate age and cannot give accurate age. I would suggest the system of preserving birth registers must be improved and better supervision should be had and omission of such registration must be punished with a heavy fine.

16. This question is very difficult for me, a layman, to answer. It is for expert doctors to give an answer. I do not think the difficulty or margin of error will be materially reduced or minimised if the Age of Consent is raised to 14. Guessing the age of girls from appearances is always deceptive.

17. I will not separate extra-marital and marital offences with different offences. I think both offences are the same and husbands should not be made to think that they are in a better position than others. The offence, whether committed by husband or stranger, affects the girl in the same way and in the case of husband there will be a temptation for the repetition of the offence.

The same punishment should be prescribed for both cases.

18. I would not make any difference in the procedure of trials for offences within or without the marital state.

19. For safeguards, I would suggest that all consummation of marriages should be registered in the same way as births and deaths are registered. The persons that give the information must be the husband or wife if they are of age or of some adult relation of the husband and wife and should give the names of the bride and bridegroom and their ages respectively and both parties, both husbands and wives people must be required to register the consummation within 48 hours of consummation. Any breach of the same should be punished with a heavy fine.

20. I do not consider that penal legislation fixing a higher Age of Consent for marital cases is likely to be more effective than legislation

fixing the minimum age of marriage. Certainly the fixing of the minimum age for consummation of marriage would be in consonance with public opinion in the Madras Presidency. Fixing the minimum age for marriage or betrothal not later than 11 or 12 will also meet with the public opinion. But the punishment should only be a fine and neither imprisonment nor nullity of marriage.

21. Subject to the answer to the question No. 20, I would prefer on the progress of social reform by means of education and social propaganda to secure the object in view. Certainly the present economic condition and the difficulty of obtaining suitable husbands for girls of marriageable age of girls is naturally raising the age of girls for their marriage. The percentage of marriage of girls after puberty is increasing year after year owing to the above two reasons and also owing to education and better sense.

Oral Evidence of Mr. C. VENKATA SUBBRAMIAN, High Court Yakli, George Town, Madras.

(Madras, 30th November 1928.)

Chairman: How long have you been at the Bar?

A. Since 10th April 1894. That means nearly 34 years.

Q. What community do you belong to?

A. Telugu Telaghana community.

Q. You are in favour of the age of consent law and also the law of marriage, the age in the latter case being 12?

A. Yes.

Q. Do you want the age to be fixed at 12 for the marriage of girls?

A. Not more than 12.

Q. What age would you fix for the law of Age of Consent?

A. Any age, I think, I said 14 or 15.

Q. What age would you fix for extra-marital cases?

A. Same.

Q. Do you think that the law fixing the age of marriage would be more effective than the mere Age of Consent law?

A. Yes, because if the age is not fixed people in poor conditions would marry their girls soon as they cannot afford to maintain the girl for long. If a bridegroom is got who would pay the money, those considerations will at once prevail. But the age is generally rising on account of so many other things. Generally no girl is married before 12 now. There is the difficulty of getting a suitable bridegroom and then there is the difficulty of paying the bridegroom because if they are passed men they will demand a heavy dowry. The age of marriage is therefore gradually rising. It has gone upto 12 and if the age is fixed at 12 nobody is injured and no cry would be raised, if it is higher the orthodox may object to Government interfering in social matters. Girls of less than 12 are married only for profitable, for mercantile reasons and this law would be a check upon those considerations.

Q. I suppose your ideal of marriage would be 16 on physical and physiological grounds.

A. I will put it at utmost two years after puberty for the reason that even in communities where they marry after puberty, they keep the girl without any anxiety for one year, but if two years pass they have to get the husband for the girl and the anxiety grows but if three years pass the girl can never be married. Such is the feeling and sentiment of those who marry after puberty. It is generally after two years that the girl is married and it is very rarely that three years pass. I think

two years is the highest period for an ordinary girl to get fit for consummation.

Q. In that case you don't seem to take account of the medical grounds and the results on the health of the girl and the infant. Is it not?

A. True. I am not a doctor, but I can only tell you my lay opinion and experience. So far as sexual instinct is concerned I think we are common with animals. I have read in books by able and eminent men that in the breeding of horses for races and other things they do not keep them long after maturity. All those animals that have consummation soon after maturity bring forth first class, more healthy and better products. Comparing that to the human beings I think 2 years is a sufficient period to elapse after puberty. Also, in my experience all those children who are born when the mothers are between 13 and 15 are as bad or as good as any others. I do not consider that mortality is due to the fact that 14 and 15 is a low age. Of course, 12 is too low. If some instances are given by some first class doctors of suffering between 14 and 15 it is due to economic causes, want of proper food and nourishment. In poor families if a girl is born the mother is not fed at all because she has brought forth a daughter.

Q. Is that among the Brahmins?

A. I will say, Hindus and not Brahmins alone. It is a second rate feeding that is given her.

Q. Do you know of any cases here where girls have become mothers below the age of 13?

A. No.

Q. Do you know of any cases of consummation before 13?

A. Yes. I have seen a good many cases where consummation has taken place as soon as 12th year is finished. I have seen at least a dozen or so. They are all healthy. I don't see the girl has deteriorated in health.

Q. In what classes you have seen this?

A. Amongst almost all the classes, Brahmins and non-Brahmins.

Q. I understand the non-Brahmins do not marry so early?

A. In cases they do, I find the same thing.

Q. How many cases, during the last 5 years, have you seen of girl mothers between 13 and 16?

A. Almost all Hindu girls become mothers between 13 and 15.

Q. Are you not inclined to think that early maternity is at least one of the causes of their deterioration?

A. By itself it is not. I may say one of the causes if the girl is 13 and not above that.

Q. If a girl is 14?

A. Certainly not.

Q. You have seen no girl mother below 14, 15 or 16 suffering. Not a single case you have seen?

A. I have not seen any case of suffering on account of the age. It may be on account of bad midwifery, bad medicine or ill-health and so on but not on account of bringing forth children at 13.

Q. How would you differentiate those cases? How would you know that the circumstances you have mentioned are the causes and not too low age?

A. By the previous health of the girl. If the girl is healthy, hale and hearty at 14 and brings forth a child and then suffers some other reasons are given by the doctors. We see that it is not on account of the birth of the child. On the other hand many Brahmin vakils have got their children when the wives are between 14 and 15. The first born children are always healthy.

Q. At what age?

A. Between 14 and 15.

Q. On this particular point opinion is so divergent and that is why I want to know whether you have known any cases personally of suffering between 14 and 15.

A. Unfortunately I have no children and therefore I can't talk from personal knowledge.

Q. You have got neighbours, friends and fellow vakils. Have you not seen a single case of a girl mother below 15 who has suffered?

A. No.

Q. Would you say that most Brahmin girls have their marriages consummated before they are 14 complete?

A. During the last three or four years I don't think it is before 14, but before that they used to have.

Q. Has the age been now raised to 15?

A. 14 is the highest. They attain their age at about 13 and they wait for about a year or a year and a half.

Q. Are most of the marriages consummated now before they complete 14?

A. Generally.

Q. Do you know of any cases where the fact of puberty is concealed?

A. Yes. There are plenty of orthodox people who conceal puberty even now.

Q. Do you think there are many such cases?

A. Almost all the Vakils who have daughters and wish the Age of Consent raised conceal the fact of puberty. Our priests also help in this. They only want us to say that the girl has not attained puberty even though she may have attained it. Otherwise they will say "we do not come to your house". I will tell you what happened in my own case, when I dined with a Brahmin who went to England and came back to India. My Purohit wanted me to say that I had not dined with that gentleman, but I would not like to tell a lie. My mother was constantly asking me to say that I had not dined and said "can't you bring in a man who could be bribed"? The priest wanted me to say in spite of the fact that it may have been published in the papers that I had not dined. The priest was bribed and the whole thing was all right. He only wanted me to say at that moment that I had not dined although outside I may go on saying that I had dined.

Q. You said there is some period that is allowed to elapse between the appearance of the first menses and the consummation of marriage. What is the time that is usually allowed?

A. For the last 5 or 6 years one year is generally allowed to elapse.

Q. Do you think there would be a good deal of dissatisfaction if the Age of Consent is raised to 16?

A. Certainly.

Q. 15 you don't mind, is it not?

A. I don't.

Q. If the age is raised to 15, do you think that the law will be effective? Will many cases be discovered?

A. If, as I suggest, this registration of consummation is introduced, it will be a good check.

Q. Do you think registration of consummation is a practical and feasible suggestion?

A. If registration of births and deaths is practicable and feasible why should this be not feasible? Everybody can be asked to go and report to the Municipal officer that I had my nuptials to-day and my age is so much.

Mr. Shah Nawaz: Are you talking of the Brahmins or all communities?

A. I am talking of all.

Q. Do you think that Mohammadans will agree to such legislation regarding registration of consummation? They will never do so.

A. That is a different matter. It is a question of sentiment. If the rule is made they would be required to do so.

Chairman: What is this that you talk of Conjeevaram?

A. I only meant that that is the hottest part here and it has become a saying that if a girl does not attain puberty after the completion of 13 years, take her to Conjeevaram and she will be all right.

Q. You say there are cases of consummation of marriage below 13 even now.

A. There are some, but they do not come to light.

Q. If we raise the age to 15 do you think they will come to light?

A. Provided some safeguards are made, but not the police safeguard. They will only worry us. They are simply to make money illegally.

Mr. Kudri: But you have suggested that there should be greater supervision by the police.

A. That is about the extra-marital cases.

Chairman: You say that among the poor classes this "Garbadhan" ceremony is not observed. Is that correct?

A. No. For want of funds it is not observed.

Q. Is it dispensed with in a few number of cases or a very large number of cases?

A. The poorer people dispense with it. Among the English educated parents also it is being dispensed with.

Q. Both among Brahmins and non-Brahmins?

A. Among the non-Brahmins "Garbadhan" takes place on the occasion of the marriage itself, but among the Brahmins marriage is a separate ceremonial and consummation takes place on a separate occasion some years afterwards.

Q. In the course of your answer to question No. 12 you have talked of certain restrictions that there were in former times on the meeting of the husband and the wife.

A. Even now in the villages the un-English-educated observe these restrictions.

Q. The practical result of these restrictions is that the husband and the wife cannot have cohabitation for more than a week in a month.

A. Yes.

Q. These restrictions are not cared for or, at any rate, not observed by the educated and the other people in the cities.

A. The educated people, wherever they may be, call these restrictions as all non-sense.

Q. But the most orthodox people generally observe them.

A. Very orthodox people do observe if they are not English educated. English education only has spoiled our social customs.

Q. Why do you take to it then?

A. You have to support yourself. For the sake of your belly you have to spoil your customs.

Q. Do you know of any Brahmin who really observe these restrictions?

A. I, at the age of 80, am observing these restrictions.

Q. What do you say of the modern younger generation?

A. The orthodox uneducated people observe them.

Q. Are there no exceptions even among the uneducated orthodox?

A. There are.

Q. And in cities?

A. In a very few families they are observed. Madras people are very much more civilized.

Q. You say some people because of their poverty want to send their girls away early to the father-in-law's house?

A. Yes, especially if he is a rich man.

Q. Is that correct?

A. Yes, because they get rid of one girl.

Q. Supposing a law is enacted would they be able to do it?

A. They can send them but no consummation need take place.

Q. Does not the sending of the girl to the husband's house mean consummation?

A. Not here.

Q. You have spoken of the orthodox ladies. You don't believe they are sufficiently cultured to be able to give an opinion on the merits of this question?

A. Because they are not cultured and one thing is that they are afraid of giving an opinion for the fear of their males.

Q. Supposing we privately ask some of them about this?

A. Some of them will say that it is a bad custom. They only feel the force of custom and are bound by it. They cannot go against the established custom.

Q. Is that a large class who feel that they have to bend their necks to custom?

A. It is a growing class.

Q. What do you think is their number?

A. About 30 per cent. feel that and in the course of next five years it may become 40 per cent.

Q. So, if that law with regard to the Age of Consent or the age of marriage is passed would these 30 or 40 per cent. feel themselves strengthened?

A. Certainly, provided the law of marriage does not exceed 12 years. They may otherwise revolt.

Mr. Kanhaiya Lal: For sexual purposes you have drawn some analogy from animals. Let us see how far that analogy goes. Do you consider that animals are more sensible than human beings?

A. In certain respects. If an animal has conceived, it does not permit the male near it. It bites, it kicks. It is not so among human beings.

Q. You know that there is considerable difference between human nature and animal nature, and you cannot fairly draw any analogy from animals to regulate human conduct?

A. So far as these instincts are concerned we can take lesson from them.

Q. What is the lesson?

A. The lesson is to abstain after conception for sometime and see that the health never suffers.

Q. Are you aware that there are rules laid down in the Shastras that if during the course of celebration of a marriage a girl attains puberty a certain kind of *Prayaschit* or purification will enable the marriage to be completed?

A. I have not read the Shastras.

Q. Are you aware that our Shastras make provision for instances in which a girl has passed beyond the age of puberty and has not been married?

A. Might be. If I say anything it will be mere hearsay.

Q. Are you aware that early consummation and early maternity have the effect of devitalising the female?

A. It all depends upon what you mean by early consummation. If early means within two years of puberty it might have that effect but after two years there is no danger either to the children or to the mother.

Q. At what age do you think a girl fit for maternity physically?

A. At about 15.

Q. Are you aware that Sushrut and Vag Bhatt have said that a girl is not fit for maternity in the interests of her children and her own health till she is 16?

A. There is not much difference between 15 and 16. In these days 15 is enough, we are precocious now.

Q. Do you think that we are stronger now than in those days?

A. We are weaker on account of education and economic conditions. We are weaker than when Sushrut wrote his text.

Q. Is it not desirable that we should even now stick to what they laid down?

A. Because we are weaker our passions are at once roused and we cannot put off longer. Owing to our diet, owing to the habit of taking stimulants, drinking, attending cinemas and theatres and reading all sorts of novels and dislike of physical work the passions are soon excited and the age should not be fixed beyond 15.

Q. Would you not recommend that in order that the progeny may be stronger these passions should be restrained?

A. They must be restrained in the manner in which old Hindu customs prescribe it to be done.

Q. Do you want the revival of those old methods?

A. Yes. I think something is being done by the social reformers with reference to the revival of those customs.

Q. Do you belong to any social reform association?

A. I used to belong to an association of which Mr. Natesan was the President. But when I saw men like Sir Sankar Nair putting certain bans on inter-dining and publishing these things in papers I resigned and severed my connection.

Q. We have been told by certain witnesses that unless you fix the age of marriage and the age of consummation at the same year, there will be difficulty in getting information about the breaches of the law. Can you suggest any measures for bringing such breaches to light?

A. Only registration.

Q. Would you be in favour of registration of marriages giving the names of the marrying parties and their ages, so that a record may be kept of all marriages?

A. Yes.

Q. Who should be the registering authority?

A. Any man that the Government may fix upon. Just as municipalities register births similarly any other department may do this.

Q. Would you give that work to municipal boards, district boards or taluka boards?

A. It should be given to some authority directly responsible to the local Government.

Q. Would you ask the revenue authorities to take up that work?

A. This is a detail which I have not considered.

Q. If there is a law fixing the age of consummation at 15 would you make cases of breach cognisable or non-cognisable?

A. Upto 12 they should be cognisable and above 12 they should be non-cognisable.

Q. Don't you think you are restricting the chances of detection by making the cases non-cognisable?

A. I want to lessen the evils of passion.

Q. Would the evils of passion be lessened if we require that all these marital cases should be investigated only by superior officers of the police like the Deputy Superintendent and nobody else?

A. Let anybody enquire except the police. Police are a terror.

Q. Even the higher grade gasetted officers?

A. They also rise from lower ranks.

Q. There are direct appointments also.

A. That won't be a sufficient safeguard.

Q. Would you be satisfied if every magistrate who gets a report of such cases is required to make a preliminary enquiry in order to eliminate all possible vexatious and malacious prosecutions before he issues any summons or notice to the accused?

A. The magistrate can do this.

Q. Would you be in favour of having matrimonial courts for the trial of marital cases, consisting of a magistrate and two non-officials?

A. Yes.

Q. Will that inspire better confidence and also expedite the disposal of these cases?

A. Yes. I think registration of consummation would be better.

Q. But there may be conscientious objection to the people being requested to go and proclaim the consummation of marriage.

A. We must yield to conscientious objections.

Q. Would you in that case prefer to have registration of marriages?

A. Yes. But how would you know that the law of Age of Consent has been broken?

Q. In the register of marriages the ages will be given and social reform organizations in the country may watch possible cases of breach?

A. They may say, they will, but they will not be sympathetic.

Q. Do you think that communal panchayats will help us in the matter?

A. No. Leave it to the good sense of the persons if registration of consummation is not possible. Even if cases go to court the judge has to rely on the evidence of doctors. If I say the girl is 18 and for such a contention I bring up an experienced doctor another doctor will come and say that the girl is below 18. Unfortunately the I.M.S. officers are unable to decide definitely the age of the girl. I have myself cross-examined I.M.S. officers and they say that it is very difficult to say the exact age. Within five years there are chances of error.

Q. Yet the judges have decided cases relating to age.

A. Judges must decide. They generally place reliance on the doctors.

Q. But is there any insuperable difficulty?

A. Unfortunately, sometimes the innocent are punished by relying on the doctors.

Q. With the register of births, and the register of marriages there should be less difficulty.

A. The registration of consummation is absolutely necessary.

Q. Do you think that the people would like to proclaim the consummation of marriages?

A. They are proclaiming it by sending invitations to friends and relations and feeding them. It is a public ceremony and there is all this totem. The couple is blessed by all the relations and friends. Coconut and other fruits are distributed. The husband is even made to say the name of the wife. It is all a public ceremony. The Brahmins are therefore already proclaiming it.

Mr. Kadri: Are you for an advance?

A. Yes.

Q. Would you not retain the law as it is?

A. No: I would not retain the law as it is and would suggest an advance.

Q. In paragraph 2 (c) you say that the age of puberty in the Madras Presidency is between 13 and 14. In paragraph 5 you say that the usual age at which girls attain puberty is above 12 and below 14 years. Probably you have made some confusion. May I know which is correct?

A. In the majority of cases the age of puberty is 13 and 14.

Mr. Bhargava: You say that in the non-Brahmins the age of puberty is between 14 and 15; the age of puberty amongst the labour classes is between 15 and 16 and amongst the Brahmins it is between 12 and 13 so that the average wouldn't come to between 13 and 14 as stated by you.

A. Yes. It is a clerical error.

Q. In paragraph 2 (c) you have said that no girl in the interests of her health and growth should be allowed to have intercourse with or without her consent at least one year after she attains puberty. Would you make the offence cognizable?

A. Yes.

Q. Would it equally apply to extra-marital cases?

A. Yes.

Q. You say in paragraphs 17 and 18 that you would not separate marital and extra-marital cases and also would not make any difference in the procedure for punishment of the husband for this reason that he cannot take undue advantage. Would you make the offence cognizable in marital cases?

A. I make the offence cognizable in marital cases subject to no change of procedure.

Mr. Kadri: You say in paragraph 6 that some cases have come to your knowledge wherein cohabitation takes place either before puberty or soon after puberty or before the girls complete 13 years and that such things occur occasionally and not very frequently among low Muhammadan classes in the city of Madras. What are those low Muhammadan classes?

A. I mean those who have not very high status and education. They are Shias and Sunnis who earn about Rs. 30 or 40 per month.

Q. Amongst these poor Muhammadan classes what are the number of cases that you have come to your knowledge?

A. Half a dozen cases I know, but they cannot be applied to the generality of cases. Of course these people marry young wives. This happened in the case of a client of mine, who told me this.

Q. Are you of opinion that the marriage age should be fixed at 12 only?

A. For the sake of the community to which I belong 12 should be fixed.

Q. Is 12 sufficient?

A. My individual opinion is you may raise it to 13 even.

Q. About 14?

A. At 14, every girl would have obtained puberty.

Q. Can they conceal it?

A. The difficulty is they think they go to the hell.

Q. In paragraph 11 you refer to the case of a girl where consummation took place before she attained puberty when she was 12. Was she very well developed?

A. For her age she was all right. She is a country girl.

Q. Would you not apply this case to similar cases?

A. No.

Mr. Bhargava: In paragraph 12 you say that if the husband took care that his girl-wife didn't conceive and if he exercised marital functions only after long intervals, the girl's health and vitality wouldn't be much affected. You also say that if Hindu ancient ideas, customs and manners are strictly observed, there will be no fear of girl's vitality being affected. Is it correct?

A. It is only possible by self-restraint.

Q. You say in paragraph 13 that even the orthodox educated Brahmins do not object really to the raising of the Age of Consent. May I know whether you have consulted the orthodox Hindu Brahmins about the raising of the Age of Consent?

A. Yes. There are many orthodox vakils and I have consulted them.

Q. Are majority of the educated Brahmin vakils orthodox?

A. The orthodox educated Hindu Brahmins are fewer than other castes.

Q. But so far as the unorthodox Brahmins are concerned are they for the rise?

A. They are for the rise.

Q. You say out of the orthodox Brahmins the majority of them will favour the raising of the Age of Consent. Is that so?

A. Yes.

Q. Would not the non-Brahmins object at all?

A. They won't object at all.

Q. You say in paragraph 15 that the system of preserving birth registers must be improved. For how many years are the birth registers now preserved?

A. They are preserved for 10 or 15 years.

Q. In other places they are preserved for 50 years.

A. But in Madras it is not so.

Q. Do you want to preserve them permanently?

A. Yes.

Mr. Shah Nawaz: I understand that you are a Telugu Brahmin.

A. Yes.

Q. In paragraph 1 you say that in your experience you never came across any intelligent educated man either heterodox or orthodox who is dissatisfied with the provisions in the Penal Code. Have you seen the gist of the debates in the assembly in connection with Sarda's Bill?

A. Yes. That is true. But after the passing of the law there was no dissatisfaction against that.

Q. Before that.

A. It was objected to.

Q. Could you give me the reason why the Brahmins insist on pre-puberty marriage? They say that the Shastras ask them to marry their girls before puberty otherwise sin attaches.

A. There is no religion for this.

Q. Do you think that it is absolutely necessary?

A. Individually I don't consider it necessary but the religious faith is so great in majority of the families that they consider it necessary.

Q. What are the reasons they give for this injunction?

A. Mere faith in Shastras and custom.

Q. No other reasons?

A. No.

Q. Is that the view of other castes also?

A. All the other castes marry after puberty.

Q. What about the vaishyaas?

A. Of course they were formerly marrying their girls before puberty but now they are a little emboldened.

Q. Do Brahmins generally marry their girls now at 8 or before 8?

A. They are very rare.

Q. In that case are not the Shastric rules violated?

A. Of course.

Q. Supposing the Shastras are violated, what would be the penalty?

A. Sin only.

Q. You say that Shastras do not enjoin that consummation should take place at any particular age. I understand some Brahmins saying that it should be consummated within 18 days of the menses. Is that correct?

A. That may be a misreading of the Shastras. I don't know anything about that. But there is no injunction. It has no binding force.

Q. But is there a distinct injunction that consummation must take place within sixteen days?

A. I plead ignorance.

Q. In paragraph 11 you say you came across only one case where the consummation took place before the girl attained puberty when she was of the age of 12. Don't you admit that there will be a lot of harm done to the married girl if she is consummated before puberty.

A. I do admit even now.

Q. Was not the case reported to the Police?

A. No. This took place several years ago, and it was not reported.

Q. In paragraph 14 you say that many women are beginning to read and write their vernaculars but really educated amongst them are in a great minority. Except the educated (women) the majority of women are very practical. They would like early consummation if there are many girls in their houses and if there is only one girl or two, they would object to their early consummation because they would be of service to them in their houses. Do you mean to say that they observe the rule of convenience only?

A. Exactly so.

Q. Not that there is a religious injunction behind it.

A. I quite agree with you.

Q. In paragraph 17 you say you will not separate marital and extra-marital offences. Don't you see that an extra-marital offence is an offence against the state and the society whereas a marital offence which is a case of husband and wife is a different one?

A. I see the difference. As a matter of fact there was a discussion amongst our friends also. But I see from the standpoint of the health of the girl in both the cases. Whether it is the husband or a stranger it doesn't matter. If you want you may make a difference in punishment. Rather I would suggest a higher and severe punishment for the husband for this reason that he cannot take undue advantage of his position.

Q. When you married a girl of ten years you being 40 were you not dissatisfied with the present law?

A. Perfectly, I was dissatisfied but since I could not get a girl of an older age in my community I was forced to marry a girl of ten years. I admit that I had to marry against my own conscience.

Mr. Bhargava: You say that there is no difference between the husband and the stranger and you have only to look to the health of the girl so far as this offence is concerned. Suppose the medical opinion is unanimous including Ayurvedic and Allopathic that there is injury to the health of the girl if the age of the girl is less than 16, would you agree to raise this age?

A. If you think that this is the medical opinion, then I have no objection for a rise in this age.

Q. So far as the extra-marital cases are concerned you say that the stranger and the husband have got equal right.

A. I have put so from the girl's health standpoint.

Q. But the health point will be the only standpoint in the case of a husband but in the case of a stranger you have to protect the girl. Then would you not think of raising the age to 18?

A. That is true. Then in that case the law would be inconsistent. My fear is why should it be 16 for the husband and 18 for the stranger.

Q. In the case of a stranger on account of the health and on account of protection to her, we require an increase in age, put briefly you also required the maturity of mental powers.

A. Yes: I quite agree with you but the girls here in Madras Presidency at 13 and 14 are very precocious.

Q. You say there will be no dissatisfaction amongst the orthodox people if the age is raised to 18 in extra marital cases. Is that so?

A. Yes.

Q. As regards the punishment you are of opinion that the punishment should be the same in both classes of offences.

A. Yes.

Q. Don't you think that an offence by a stranger is more serious?

A. Yes.

Q. Then would you be satisfied with a mere fine only?

A. He might also be punished with rigorous imprisonment for about two or three years.

Q. You are of opinion that the present punishment of two years should continue in marital cases.

A. Yes.

Q. Will you not be content with a fine?

A. No.

Q. With regard to the registration of consummation, how do you think it will work?

A. Just as there is a register for births and deaths so also there will be a register for this. The husband has simply to go there after the consummation and record it there.

Q. You want him perhaps to record that the offence has been committed as a consequence of the consummation of marriage.

A. The positive fact of registration will prevent him from making an offence.

Q. Is it likely that a man after committing an offence would go to an officer and make a confession?

A. It is not likely that a man would commit an offence if he has to face the register.

Q. Do you know that garbadhan ceremony doesn't take place in every part of India?

A. Amongst the non-Brahmins garbadhan ceremony and marriage takes place together.

Q. Your suggestion relating to the registration of consummation of marriages is only for those classes in which it takes place long after marriage.

A. Yes.

Q. Why do you say that there should be a law for marriage at the age of 12?

A. Because there will not be the least line of resistance from the Brahmins.

Q. Do you realise that there are other sections of people greater in number than the Brahmins in the Madras Presidency who perform their marriages at the age of 8 or 9.

A. Therefore this legislation affects the Brahmin community only.

Q. If you care for the sentiment of Brahmins would you extend the same amount of care to the religious injunctions of those people in whom marriages take place amongst people at 8 and 9?

A. According to commonsense marriages at 8 and 9 are absurd.

Q. May I understand that you are for using your commonsense in the matter of legislation of marriage? There is one view that the legislature should not interfere at all in matters of marriage?

A. I won't agree. I will agree with a moderate view that with the legislation you must take the people along with you but in places where they marry their girls at 8 or 9 I don't know their sentiments.

Mr. Mitra: What do you think to be the reason for the Brahmin girl attaining puberty very soon?

A. The reason is they are more precocious and intelligent.

Q. It has been suggested to us by some that because there has been childmarriage amongst the Brahmins, that has been one of the facts why the Brahmin girls attain puberty very soon.

A. I don't agree.

Q. Neither can you give any reason for that?

A. They are more intelligent.

Q. In paragraph 7 (d) you say that generally the husbands reading the novels and by their experience of the general moral standard of boys and girls both in their community and other communities think that their wives after they attain puberty should not be allowed to stay in their parents' house one moment longer lest their morals should be corrupted. Do you think they are justified in adopting this view?

A. They are not justified but it is the narrower view of those people.

Q. In paragraph 11 you say that you came across an instance where consummation took place before puberty, i.e., when the girl was of the age of 12 years. Was there any issue?

A. They had two children. The children are alive. The mother is alive and they are all healthy, but I cannot draw any conclusion from that. I gave it as an exceptional case.

Q. The orthodox view amongst Hindus of the main purpose of the marriage is to get children.

A. Yes.

Q. You devise in paragraph 12 something which is against Shastras.

A. If they observe the Hindu customs and manners and avoid intercourse on oil bath days and on amnavas days and such other days a man thus practically gets only two or three days in a month and thus he will minimise the chance of consummation. That means no bad effects will be produced, on their health.

Q. What is your experience about registration of births? Is it properly kept?

A. It is most properly kept.

Q. In the mofussil is it accurate?

A. I understand the system is they don't keep the registers where they are written out. They send them to some officer and in transmission they are missed.

Q. Is there a fine in the municipal areas for non-reporting of cases?

A. Yes.

Q. As regards the consummation of marriages you have suggested that if they are registered the purpose may be served.

A. In those countries where garbhadhan ceremony or consummation takes place, some two days after the function, it can be recorded in the register.

Q. Don't you think that the orthodox people are very much against the system of registration of consummation of marriages?

A. They cannot object because it is celebrated publicly and they won't.

Q. You say that now-a-days garbhadhan ceremony is not observed by many and it is being given up.

A. Yes: it is being given up. It will put down the evil of consummation before the age is fixed for it and if registration is also kept that will be a check on it.

Q. You say that people celebrate this garbhadhan ceremony publicly and so there will be no objection to the registration of consummation of marriages; you also agree that this garbhadhan ceremony is itself being abolished and that people don't like it. Is it correct?

A. Not that people don't like it. But now-a-days it is not so much cared for.

Q. Then it is confined to very few Brahmins?

A. I can't find a better safeguard than this.

Q. As regards the fixing of the minimum age for marriage, you think an infringement should be visited with only fine. Will it not be included as part of the marriage expenditure? Don't you think it will tax the poor people?

A. Put the fine according to the condition of the person. If he is a rich man levy a heavy fine on him.

Mrs. Nehru: Are you in favour of retaining the law or omitting it?

A. I would not retain the law.

Q. You have said that girls can understand at the age of 13. Have you seen any girl?

A. I have seen few girls, but at 13 they are intelligent. But I am modifying it by saying 14.

Q. Are you connected with any girls' associations, like girls' colleges or schools or widow's home?

A. No.

Q. Then on what basis you say they can understand at 13?

A. I cannot say that. I say they are more intelligent than boys. They know what is wrong and what is not. But 13 may be altered to 14.

Written Statement, dated 11th August 1928, of Miss L. KRISHNA-BAI, B.A., Secretary, The League of Youth, Madras.

1. Yes. There is a lot of dissatisfaction with the state of law as to the Age of Consent as contained in sections 375 and 376 of the Indian Penal Code. Because, in the first place, the law as it stands at present remains inoperative, without the aid of a concurrent section in the Statute forbidding marriages below a certain age; secondly, it is quite insufficient,

since it would be against the nature of things to hold that a girl attains a "consenting mind" even before both her mental and physical natures have developed to that extent of understanding and resistance in the eyes of Nature. Logic and Nature demand a higher "Age of Consent" than the present one. Further the distinction between intra-marital and extra-marital ages are quite illogical; since a girl cannot attain the required mental development sooner in the one case than in the other; it is quite against Nature which works with equal equity. Reason and Justice demand—that the distinction of making a man a culprit simply because he is not in the marital state, and acquitting another of the same crime because he happens to be a husband, should, as far as possible, be removed. A crime is a crime, be he husband or outsider; the only thing that matters in the present case is the proper age of the girl, at which she would be able to give a tolerably intelligent consent, convergent with the consequences, in consonance with the biological laws of Nature.

2. A considerable advance on the present law is imperative, in the interests of Society and the preservation of proper physique in boys and girls. The evils of early consummation are too well-known, and the physical deterioration, especially in the girl, is quite visibly disastrous to society. The bringing forth of unhealthy children by helpless, unhappy girl-mothers is a common sight among the early-consummating communities. Devitalising diseases, like consumption, debility, anaemia, dyspepsia, are due to early consummation and early maternity and these are common among communities which tolerate such disastrous customs.

3. Crimes of rape (intra-marital) are not very rare. But only few come to light before the courts. No visible results of success are evident due to the amendment of the law. Whether the number of cases are reduced or not, a stricter enforcement and operation of the law is necessary. Raising the age still further will certainly have a telling effect, since it would be easier to detect cases and award exemplary punishments.

4. So far, the amendment of 1925 has had no visible effects with regard to the protection of girls under 13 against cohabitation with husbands.

(i) Consummation is never postponed because of the law; once a girl attains puberty, within a few months, usually three months after, she is consummated in the higher communities.

(ii) Public opinion has been inarticulate on this point; perhaps, now it is more inclined to postponement of consummation and the amendment of the law has to some extent stimulated public opinion.

(iii) Marriages are not put off because of the law. 13 is a limit beyond which few people among the higher communities go, and before that age, most often marriages take place in such communities. The law has had no effect on such marriages.

To make any law with regard to the Age of Consent more effective, it must, side by side, have an important legislation penalising marriages below a certain prescribed age. In fact, the "Age of Consent" itself must be complimentary to the age of marriage.

5. Girls usually attain puberty between the ages of 13 and 15 in Brahmin and other communities where pre-puberty marriages are in vogue; while in communities where post-puberty marriages are prevalent, it is generally a little higher,—between the ages of 14 and 16, the reason being purely environmental and to a great extent psycho-physiological.

6. (i) Cohabitation *stricto sensu* is almost non-existent before puberty.

(ii) This is quite common in all communities. Even where post-puberty marriages are practised, invariably the marriage takes place within a year of puberty and the cohabitation begins almost immediately in the generality of cases.

(iii) There are few cases of cohabitation before the girl completes 18 years, generally in communities where early marriages are practised.

Not many of these cases come to court, practically none in intra-marital state. The practical difficulties of having recourse to law will be many so long as the marital tie holds the violator and the violated. Sometimes cases do crop up in the form of an application of Habeas Corpus, of production of minor girl, but these are not always done with the best of motives, and if done, only in extreme cases of ill-treatment. The parents, generally resign their children to their fate in their husbands' homes and seldom do they show any inclination to invoke the aid of the law, even if they come to be aware of any violation on the part of the husband, mainly for fear of the shame they might be put to and partly due to an injuriously tolerant custom.

7. Early consummation has never the sanction of any written religious sanction from the Shastras. If any sect practises it in the name of religion it is due partly to blind custom and partly to many personal and selfish considerations. There is not a single authority in the Smritis either enjoining early consummation or punishing the failure to do it, though there might be authorities for early marriage. On the other hand the two great ancient medical authorities, Susruta and Charaka, definitely fix the age of consummation at sixteen. Neither ancient Hindu religion nor ancient Smriti texts, from Manu down to Parasara, have ever countenanced early consummation nor do they prescribe penalties for the breach of it.

8. In the Brahmin community, the "Garbhadhan" is usually performed on the same day as the consummation ceremony. The two ceremonies co-incide.

9. Puberty according to the best medical authorities, is but the first signs of sexual organic growth. Such growth can never be complete all at once, on the advent of puberty, but takes a little more time. In fact, the very physical formation of the girl takes a rapid growth for some time only after puberty. It takes at least two or three years after puberty for the girl to attain her full sexual organic powers. Even the bones begin to harden only then. Hence puberty is but the beginning, not the completion of maturity. There must be at least a lapse of four years for the girl to develop her full new-born physical and mental powers and then only would she be fit for consummation. Further a complete margin of age must be left to her to gain sufficient consciousness of the responsibilities of motherhood. Consummation, therefore will be justified only at least after the age of 16 in India, and this may fairly insure the girl against physical injury and mental harm.

10. In India, the very inherent modesty and shyness of girls make them understand little of life and its dangers, even after puberty. It takes quite a lot of time for the girls to overcome these feelings even after puberty, which is to them but a new sensation in life. Unless compelled continuously into cohabitation by the husbands, the natural age at which girls might get full consciousness of their powers, so as to give an intelligent consent to cohabitation with due realisation of the consequences, might be said to be 16, unless some are very precocious, either by heredity or by environment and association.

11. Among the Brahmins, cohabitation just after puberty and before full development is quite common. By observation it is found that most of these cases result in chronic diseases either by the lungs or the intestines, beginning from the first child-birth. The period of pregnancy is generally one of great anxiety. Other diseases also are seen where there is no child-birth. Generally, women who have married and consummated early are very weak, nervous, and susceptible to all kinds of ailments and are in very many cases short-lived; their children also are of the same type.

12. Early consummation and maternity are chiefly responsible for the high maternal and infantile mortality. They, of course, arrest physical and mental growth especially in women. Mentally such women are very ill-developed, except in stray cases where education and other good influences

might operate a little favourably. The progeny also is physically and mentally much impaired.

13. *Vide* answer to question 4 (ii) *supra*.

14. Mothers are decidedly against early consummation. But practically they are forced to tolerate it, being either highly sentimental or influenced by false religious ideas, or constrained by circumstances such as the husband's or his parents' insistence on such consummation.

15. There is always the difficulty in determining the ages, especially in villages. Compulsory Registration and issue of birth certificates are the main remedies.

16. The difficulty would materially be reduced if the age is raised to 16. The very natural appearance and development will help detection.

17—18. So far as the ages are concerned there can be no two distinct offences, intra-marital and extra-marital. The offences must be one so far as the age is concerned. Sixteen can be fixed as the proper age for both extra and intra-marital relationships. Otherwise the husband would only be a pardoned offender, simply because he happens to be the husband of the girl. To make such distinctions in law is against the principles of equity and justice. But an outsider may always be punished more harshly, in the interests of Society. The husband may be treated a little leniently by:

(i) making it a bailable offence, arrestable only with warrant, and making it a summons case triable by the court of session.

(ii) The maximum sentence being (a) Transportation for life, or 10 years' imprisonment and fine if the wife is under 14 years; (b) 2 years (simple imprisonment or rigorous imprisonment) or fine or both if the wife be over 14 and under 16 years.

20. Any penal legislation fixing the Age of Consent for marital cases is bound to meet with difficulty in operation without a similar legislation fixing the minimum marriageable age. Both are necessarily concomitant measures. Public opinion here certainly favours both kinds of legislation.

21. The penal law must necessarily be strengthened, for in these cases social reform through education has been found to be too slow. Propaganda and education can easily be complimentary to necessary social legislation; while such reforms do require sufficient strong backing of the penal law, without which it is so difficult to wean custom-ridden people of deep-rooted prejudices.

Oral Evidence of Miss L. KRISHNABAI, Secretary, The League of Youth, Madras.

(Madras, 20th November 1928.)

Chairman: I understand that you are the Secretary, The Youth of League, Madras.

A. Yes.

Q. Are there two Secretaries?

A. Yes.

Q. Are you one of them?

A. Yes.

Q. Is the other also a lady?

A. A Gentleman.

Q. Is this the opinion of the League or is it your personal opinion?

A. It is the opinion of the League.

Q. I mean was it presented to the Youth League and discussed?

A. All these conclusions have been arrived at only after these questions were discussed in the League.

Q. What is the qualification for a membership? Who is a youth and who is not a youth?

A. Up to 30 may be looked upon as a youth.

Q. What is the strength of your League?

A. It is about 100 and odd.

Q. How long has it been in existence?

A. It has been in existence for the last 3 or 4 years.

Q. Have they to your knowledge passed any resolutions in connection with Sarada's Bill or Dr. Gour's Bill?

A. Yes; that is to say, the special feature of our activity for the last two years has been in connection with these two questions, and many resolutions have been passed.

Q. Is there the same age you have stated, viz., 16?

A. Yes.

Q. You differentiate between the two offences simply by certain difference in procedure of trials and the punishment for extra-marital cases, otherwise you don't distinguish between the two. Why is it so?

A. Because the consequences are the same.

Q. While I may bring to your notice that the consequences in the case of a stranger are worse because there will be a moral depravity attached but in the case of the husband there is no moral depravity attached to it. Would you therefore not think that the age should be higher in extra-marital cases than inside marriages?

A. No.

Q. You seem to think that the law of marriage is a prime necessity. You say that should be done first more than the Age of Consent. Is that correct?

A. More importance is attached to the law of marriage.

Q. Suppose you have the law of marriage enjoining marriages below 16, then would the Age of Consent law be necessary at all?

A. It wouldn't be absolutely necessary but it will have to be.

Q. If marriages are prevented below 16, will you still have the law of consent?

A. There is a large section of the community which doesn't agree to post-puberty marriages.

Q. I understand excepting the brahmins it takes place after 16. Is it not?

A. Yes. Neither have they any difference of opinion with regard to the Age of Consent. The consummation in them follows more or less the marriage.

Q. Even according to you, you want the Age of Consent law also to be on the safe side.

A. Yes.

Q. We are told that the orthodox section are opposed to any kind of legislation. How do you say that public opinion is in favour?

A. The orthodox opinion is only in the small conservative set of people.

Q. Would you admit that the advanced section is a small one when compared with the whole Brahmin population? Are you prepared to say that the advanced section is much larger than the orthodox section?

A. If it is not larger, it is very influential.

Q. It may be influential. What percentage would you put for the advanced section than the orthodox?

A. I think you can take them more or less equally.

Q. Have you any definite information of the views of the young women that is according to your definition of women below 30?

A. Yes, I have had.

Q. Can you gauge their opinion?

A. Yes. They are strongly of opinion that the girl should more and more devote herself to study before she enters into marital relations.

Q. Have you consulted the girls also?

A. It is not only the opinion of the girls who are educated but even of the girls who are at home and they have a longing for the life of this sort.

Q. Have you had any talk with any orthodox ladies who are mothers of these girls?

A. Yes. Girls of our own age are mothers. I have had talks with them.

Q. What do the mothers think? Do they feel that their daughters had better be married at a late age?

A. I find that they like to bring their daughters in a different manner but they are afraid of custom.

Q. Do you think that there is a large number of concealed puberty?

A. As far as I know the concealment used to be in practice about few years ago say 6 or 7 years ago. But I think people are more bold now. They don't mind it.

Q. Would you put that as a large class of people or a small class of people?

A. About 30 per cent.

Q. What do you think are the reasons for it?

A. I think it is due to more general spread of education and advanced ideas about marriage.

Q. With regard to garbhadan ceremony amongst the Brahmanas do you think that is the general custom?

A. I believe it is so.

Q. What do you think is the age of puberty of Brahman girls and the age of consummation? What time elapses between the two?

A. Between 12 and 15.

Q. When do you think the garbhadan ceremony takes place?

A. It varies in different sects of Brahmanas. I do not know definitely the sects but it ranges from 16 days to six months after puberty.

Q. Do you think there is a very strong feeling in favour of pre-puberty marriages amongst the orthodox people?

A. You cannot call it a strong feeling. People cannot get rid of the idea.

Q. Do you think that in the case of 30 per cent. that you spoke of who cannot shake off this custom, if there is a law of the Age of Consent or the marriage law, would it not be resented?

A. Every reform movement is resented but that should not be minded.

Q. Have you any reason to believe that there are cases of breach of the present law of the Age of Consent?

A. In villages we hear of them but they are not brought to notice.

Q. Are there no cases in cities?

A. I am not aware of any.

Q. In answer to question 6 you have said that early consummation is practised but many cases do not come to court and practically none in intra-marital state. Is that a fact or is that a gathered information?

A. I know there are cases but they are not made public.

Q. Supposing there is no marriage law, would you accept a law of the Age of Consent only?

A. That would be absolutely useless.

Q. If there is a marriage law of 16 then Age of Consent law is not necessary and standing by itself it is useless? Is that your opinion?

A. Until public opinion reaches complete understanding the Age of Consent law may be retained. As public opinion is enlightened we can do away with Age of Consent.

Dr. Beadon: In para. 9 you say "further a complete margin of age must be left to her to gain sufficient consciousness of the responsibilities of motherhood". At the same time you say that a period of 4 years should be allowed after puberty. What do you mean by a complete margin of age?

A. I would fix the age at 18; 16 is the minimum.

Q. In para. 11 you say that by observation it is found that most of these cases result in chronic diseases either of the lungs or the intestines. Have any cases come to your personal observation in which a definite disease occurred as a result of first child-birth?

A. I know a case where a girl was married bordering on the age of 12. She gave birth to a still born child.

Q. At what age did she get the first child?

A. At about 14 or 15. She had 18 deliveries including abortions but all were still born children. Now she is consumptive.

Chairman: Would you not say this is an exceptional case?

A. I have known many cases of this sort, which had hysteria and consumption.

Dr. Beadon: Hysteria and consumption are very common in Europe where early marriage is unheard of. How can you say that these particular diseases are due to early consummation?

A. We have got girls on the other hand who are studying and are unmarried; they are not affected.

Q. Wherever a girl has got occupation of mind you will find hysteria non-existent.

A. That means occupations that she is not able to bear.

Q. Have you met children of these young mothers? Are they of good health and well developed?

A. 50 per cent. are rickety children and have enlargement of spleen and liver.

Q. Is that in Madras or upcountry places where there is a great deal of fever?

A. I think that was more in upcountry places.

Mrs. Nehru: Are there many girl members of the League?

A. About a dozen.

Q. What is the total membership?

A. 100 and odd.

Q. Are the members married or unmarried?

A. Most of the boys are unmarried and only two or three girls are married.

Q. How old are those who are not married?

A. Between 18 to 22.

Q. Are those girls Brahmans or non-Brahmans?

A. Both; six girls are Brahmans.

Q. Are there many girls and boys who are forced by their parents to marry?

A. I have heard much about it but they were prevailed upon to marry.

Q. Is there any rule in your League of Youth whereby you try to prevent early marriage?

A. We have been agitating for some time past.

Q. But members do not take a vow that they are not to marry before a certain age?

A. Some of us have taken a vow not to marry before 25. We have reached an understanding that until a man is in good financial position he should not be married.

Q. Have any of those who have taken the vow broken it?

A. I do not know of any.

Q. For how long you have had your members subjected to this vow?

A. From the very beginning the league was started. It is about 3 or 4 years ago.

Q. During this period has any of the boys passed this age and married?

A. Except one I do not think anybody has married.

Q. You know there is at present a great difficulty about bringing cases in marital state to light. If on the League of Youth is laid the duty of bringing such cases to light and making complaints in marital offences will the League be able to do it?

A. Yes, if you give us the facilities for instance starting of marital courts where the accused persons can be tried the League will certainly undertake it.

Q. Will you be helped by the general public?

A. Yes, all the social reform institutions will be ready to help us.

Q. Will you be able to get evidence sufficient for trying cases?

A. Yes. If we start an institution with all the necessary requirements I think we could give all the help you require.

Q. You want to put the extra-marital and intra-marital cases on the same basis. What is your reason for it?

A. We do not believe that there is any difference between the two.

Q. But the consequences of the two are different. In one case a girl suffers only physically while in the other case she suffers morally as well as physically. A married girl is not victimised for the whole of her life, and made an outcaste from society?

A. We stand for higher order of society and we do not draw this difference.

Q. Can you tell me whether the dowry system is very oppressive here.

A. It is very very rife here especially in the extreme South Indian villages.

Q. Are you fighting against that system also?

A. Yes, our League is doing it.

Q. Have the boys taken a vow as regards this system also?

A. It is not actually a pledge but it is an understanding which they undertake to stick to.

Q. Do your members do any preaching against this system?

A. We have our meetings touching these questions, we discuss them freely and we influence people.

Q. In those cases do you find that besides the members of your League boys are more tempted to take dowry or the parents?

A. I think it is both. There are weak-minded boys and ambitious parents.

Q. Is this evil decreasing or is it just the same?

A. Judging from my surroundings I can say it is getting less, but in the villages I can authoritatively say it is worse.

Q. Why is it worse in villages?

A. It is due to corruption of the elders.

Q. Can you tell me whether the joint family system is intact or is it breaking?

A. My view is that it should be done away with because it will give more liberty to boys and girls.

Mr. Mudaliyar: What is the extent of sanctity that you attach to Hindu religious books or Hindu religious scriptures?

A. We are not very well versed with them but we have greatest respect for them. Of course we will not stand any wrong construction being put upon them.

Q. Then do you put your own construction?

A. Yes.

Q. To that extent you are diametrically opposed to the orthodox section?

A. We oppose in this way that all the Shastras were made to suit our convenience and from time to time should change as laws change and must change.

Q. Therefore what is not convenient for the time being must go away though it has a place in the Shastras. Is that view correct?

A. Yes.

Q. Therefore may I take it that you have no reference at all to the Shastras in prescribing your course of conduct?

A. We have got a correct estimate of the Shastras.

Q. If you think a particular course of conduct is suited for the present age you follow it whether the Shastras prescribe it or not. If the Shastras agree with you so much the better for the Shastras? Orthodox section puts it in a different way—when the Shastras prescribe a certain course of conduct and your exigencies require a different course of action then your exigencies should change according to the Shastras.

A. That position is correct but we do not agree with it.

Q. Are you very keen on study?

A. Yes.

Q. Supposing it were argued that it is impossible for every girl and every boy to be educated to that extent, would not your argument lose force?

A. We do not mean by education graduation. But education means to fit a man or woman in private life.

Q. As against that it is said that marriage does not prevent an individual from following that course of education which will really and completely fit him or her for life? What do you say to that?

A. But early marriage does prevent.

Q. What is the age at which you draw the line?

A. If you take the marriage question I would stick to 16 as marriageable age and 18 as Age of Consent.

Q. Is that the considered opinion of your League?

A. Yes.

Q. I understand from your memorandum that you are in favour of some lenient course of punishment; but you have suggested 2 years or fine or both if the wife is between 14 and 16. Remembering that the present punishment if the wife is above 12 and below 13, is 2 years, may I request you to correct your views?

A. We have said we do not draw any hard and fast rule between extra-marital and intra-marital relations.

Q. Would you like to stick to this answer?

A. Yes.

Mr. S. C. Mitra: The persons who advise a higher age for extra-marital cases argue in this way that in marital cases only physical development of the body is to be looked after while in extra-marital cases physical development, understanding and mature intellect are also to be considered. Why do you think no difference is necessary in marital and extra-marital cases?

A. I think I will stick to what I have said.

Q. When women are not allowed to exercise their legal powers before 18 how do you think they can exercise power over their person at 16?

A. This right which is better than any other right should be exercised at 16. 16 is the minimum we have suggested and 18 is the maximum.

Mr. Thakurdas Bhargava: May I know the objects of your League?

A. To create a better order of society.

Q. What do you think the better order of society will be like?

A. We are not against marriage at all.

Q. Are you for that order of society in which men should be married at over 24 and girls at over 18?

A. Men should live independently without their parents' help or hereditary wealth. They should be educated and cultured.

Q. You are for breaking the joint family system?

A. This is more a personal question. The league as a whole does not subscribe to that idea.

Q. The League is not for any improvement in married life, but it is almost for independence from the joint family? Is that so?

A. No. Marriage is not our only sphere of activity.

Q. What is the object of the League?

A. Betterment of the social, and economic condition of the people. The objects are given in the book.

Q. Among the Brahmins is there no purdah system here?

A. No.

Q. Your opinion is that so far as offences are concerned marital or extra-marital the punishment should be different because the husband is a licensed man?

A. Yes.

Q. I take it that when a girl is married with her own consent or with the consent of her parents than by the act of marriage some sort of liberty is allowed to the married couple?

A. Yes.

Q. This is the reason for giving less punishment to the husband?

A. Yes.

Q. In that case I understand that in the case of a marital offence a girl generally is taken to be not exercising any sort of consent whereas in the case of extra-marital cases the girl should be able to exercise some sort of consent. Is that the difference?

A. Yes.

Q. If that is the difference it follows that if the girl is of 16 there is no possibility of injury being inflicted on her by her husband but she would certainly be injured if a stranger has got intercourse with her because mentally she is not capable of consenting. So I take it that 18 is the least in extra marital cases.

A. Yes.

Mr. Shah Nawaz: Is it one of the objects of your League that religious education should be given to boys and girls?

A. Yes, we believe.

Q. Do you call untouchability religious or irreligious?

A. I would call it a social question but not religious.

Q. Have you come across many countryside women?

A. Yes.

Q. Have you talked to them heart to heart?

A. Yes, occasionally.

Q. What is their point of view in respect of fixing the minimum age of marriage or in respect of raising the Age of Consent?

A. Their genuine feeling is that their girls should see more of life and a mother would like to retain her daughter for a longer time. Now when a girl is married practically she goes to her husband.

Q. Do the countryside women like to marry their girls before 13 or 14?

A. There are certain classes of men who are more fond of pomp and show.

Q. Is it your opinion that they would favour Sarda's Bill?

A. Yes if proper education is given to them without prejudicing them they would favour.

Q. Do you think they are entirely in the hands of men?

A. Yes, men are very indifferent in villages.

Q. And in urban areas?

A. Men are more conservatives.

Q. Why in your opinion men are so conservative?

A. Because they are so made.

Q. Do you think it is due to selfishness on the part of men?

A. It is not specifically selfishness but it is due to indifference.

Q. We are told by Brahmins that girls before the age of 16 would like to be married?

A. In many instances they are prejudiced by surroundings. That is why I say by educational diversion of the girl this precocity will disappear.

Q. Do you think a considerable number of girls will go wrong if they are not married before 16?

A. No, it is just an assumption on the part of men.

Q. Do you think they marry their girls before puberty because they think that girls will go wrong?

A. It is just an excuse for not doing their duty.

Mr. Kadri: Do you know if the people are generally acquainted with the present law of Age of Consent?

A. I believe the law is not known in the villages.

Q. Is it because the Age of Consent has been raised for one year only?

A. It has not been properly advertised.

Q. Would your League assist in the publication of this law and educating public opinion on this point?

A. Yes.

Q. Are you acquainted with the system of birth registration here and in rural areas?

A. In the villages there is a system of registration but it is working very badly.

Q. Have you any specific suggestions to make to improve that system?

A. I would recommend that marriages should be registered.

Q. Should registration be done by the same officer who is in charge of birth and death registers?

A. Yes.

Written Statement of Mr. P. RAMANATHAN, Advocate, High Court, Madras, President of the " Vellala Mahajana Sangam " and Secretary, " The Madras Landlords' Association," etc.

I am in entire agreement with the proposed amendments of Sir Hari Singh Gour's Bill to raise the Age of Consent. The enlightened public opinion of this part of India is in favour of such an adoption.

It is impossible to approach the questionnaire without first considering the general question of early child marriage in its various aspects, that is, its effects from the following points of view :—

- (1) The intellect of the off-spring.
- (2) The physical condition of the same.
- (3) The physical effect on the father.
- (4) The physical effect on the mother.

(1) The Intellect of the off-spring.

Early marriages prevail in its most intensified form among the Brahmins of South India and whilst there is a great deal of controversy whether the Shastras prescribed early marriages or not it is undisputed that the system has been in vogue for several centuries amongst this community. It is equally undisputed that this community is the most intellectual in the whole of India and is second to none in the whole world. It is obvious therefore that early marriages have not tended to intellectual deterioration of the community. If this conclusion were wrong one would expect that after centuries of prevalence of this practice the race would have degenerated to such an extent that to-day the Brahmins would be a race of imbeciles or, at least less intellectual than their forefathers, but History would seem to point out to exactly the opposite conclusion.

The next most intellectual Community is to be found amongst the Communities of Malabar on the west coast of India. Now it is not uncommon that girls in this community bear children early in life and whilst this may be partly accounted for by the system of marriages prevalent, it is difficult to say that early marriage has not told upon their intellectuality although what is gained in the intellect is lost in the flesh. Then comes the consideration of the next aspect.

(2) The Physical condition of the race.

We have no other proof that the present condition of the communities amongst whom the practice of early marriages prevail are less virile than their forefathers. The physical condition of the people all over the world is not what it was in the stone or the iron age, but that is admittedly due to social and economic conditions which are wholly different to what they were in those days. On the other hand the fact that these communities still exist and have not been wiped out amongst surroundings so wholly detrimental to healthy manhood proves to my mind, that early child marriage does not really play any considerable part in the degeneration of the race, if it plays a part at all. The great infant mortality can also be accounted for by the social economic and sanitary conditions and there is not the slightest proof that it is due to early marriages. It would seem to be recognised on all hands that the present physical condition of the communities given to the practice of early marriage and consummation is far below the standard of several generations ago and in all probability the effect of early marriage on the Indian races will ultimately tend to produce weaklings to be trampled under foot by the powerful nations of the earth.

(3) The physical effect on the father.

It may be assumed that the earlier the man begins to have sexual intercourse the shorter will be the lease of Life. He devitalises himself

earlier and more rapidly than one who begins later in life, but on the other hand he is given less to the temptation of going to excesses than one who suppresses his passions. Assuming however that his life is shortened by a few years it can hardly be considered to be an unmitigated evil. It is however difficult to say to what extent the shorter life of the Indian as compared to that of the European is really due to, his indulgence in sexual intercourse earlier in life and not to social, economic and climatic conditions. The less robust constitution of the males amongst the communities given to early marriages is accounted for by their habits of life. This practice generally prevails amongst the higher communities whose sedentary habits and intellectual pursuits must of necessity have a deleterious effect on their constitutions.

(4) *The physical effect on the mother.*

It is this question, which however, more than any thing else that justifies Legislation preventing, if not early marriage, certainly early consummation. The girl in India does not attain puberty before her sister in Europe. But her puny stature, the absence of proper public developments, the immaturity of the womb and the weakness of her constitution generally, as testified to by almost all the doctors in India, shows that she is not fit for sexual intercourse and bear children at that early age. Observations seem to show that the attainment of puberty does not necessarily indicate fitness for bearing children in all communities though there are classes where girls who attain puberty are well able to bear children.

1. Among the educated classes and among the more advanced communities excepting the orthodox community, there is much public dissatisfaction about the existing Law as to the Age of Consent as provided in the Penal Code.

2. I think enlightened public opinion of the Brahmins and the high caste Non-Brahmin communities are in favour of the raising of the Age of Consent between husband and wife to 15 years and in all other cases to 16. I am speaking of the former with some knowledge of the feelings of the parents and the guardians of the girls and boys in this Presidency. They will whole heartedly support the change. I am confident that even those who opposed Sharada's Bill proposing marriage at the age of 14 years, will support this. I think 16 years in the case of married girls is not an unreasonable age at which the girls would realise the results of marital connections. Personally I would like the age even in the case of married girls, to be raised to 16, but I would prefer to rely, for further changes, on the progress of social advancement by means of real education and social propaganda as well as on the strength of the Penal Code, for in India where genuine progress is seldom cared for by its patriots so called and public men who are more interested in other directions than the promotion of the building up of the manpower and the womanhood of the nation. The existing laws are both insufficient and ineffective and often lead to several varieties of crimes. The imperfections of the existing law has been responsible, at least in some glaring cases, for avoidable crimes, for as the Poet says:

"Errors in life breeds errors in the Brain.
And these reciprocally those again."

3. Crimes of seduction and rape though not frequent are not uncommon. The amendment of 1925 has not produced much good effect. I would propose to make the law effective by the age of the marriage being fixed at 16.

4. In some cases the consummation has been postponed. But public opinion has not been stimulated to any appreciable extent. Marriages are still performed under 13 years and even by educated citizens. I would propose Legislation fixing consummation at 15 years and this would be the only effective step in this direction.

5. The usual age at which girls attain their puberty is 12 to 14 and in a few cases even at ten years and in one case at the age of 9 years. Working classes attain puberty later while highly intellectual classes attain puberty earlier when the organs are ill-developed and premature. Maturity is caused by Pathological conditions, sexual feelings in the mind are prematurely developed by associations with persons, study of literature and by several other ways.

6. Yes. In the case where the husband is over aged and the girl is young and needs a companion, consummation is allowed to take place even before puberty, occasionally among some classes. As the girl is not accustomed to stay with her husband until maturity, a mock maturity ceremony is performed by villagers. No cases come to court, on account of the shyness that people feel to expose their family life.

7. Yes. The Brahmmins regard it as due to religious injunctions but is now performed as sanctioned by custom and usage.

9. I don't consider the attainment of puberty as sufficient indication of physical maturity to justify consummation of marriage. For it is only the first indication of sexual feelings. No girl would be considered fit for consummation of marriage without injury to her own health and that of her progeny until she has completed her 16th year though she may have attained puberty earlier.

10. A girl in India can give an intelligent consent with the full realisation of the consequences only at the age of 16. It is then only she reaches the age of discretion. As Mannu says, childhood ceases at 5, *Yauvana* youth, i.e., womanhood commences at 16. I know one case, at least, when a girl was sent to the bed room to join her Lord on the nuptial day, she begged her mother also to accompany her into the room, and this is a clear evidence that the girl has not reached years of discretion nor did she realise the purposes of marriage.

12. I consider early consummation and early maternity are responsible for the heavy mortality in India as compared with the other countries of the world. On this ground alone one will be justified in supporting the proposed Legislation. People either prematurely die or live a wretched life. Certainly the future of the nation is completely ruined, early consummation resulting in a weak impoverished and debilitated population.

23. It is only the more advanced classes that have any opinion on this question of the extension of the Age of Consent. But there is a feeling among the Brahmmins that if girls are not married before puberty they will be out casted.

14. Yes. The women in this Presidency favour early consummation out of ignorance and owing to the social customs which are fully believed to be based upon religious sanctions.

16. The difficulty in determining the age would be materially minimised by the raising of the Age of Consent. I think 15 years can be more easily proved or disproved than 12 or 13.

18. I would certainly make a difference in the procedure of trials for offences within or without marital status. In the case of the former it should be in camera and by experienced and aged citizens specially appointed and assisted by medical experts. A responsible person like a Referring Barrister in England should proceed to the place and hold a private investigation. On his report alone cognizance of the case should be taken.

19. I would also insist as a safeguard that such prosecutions should be launched only on the authorisation by a District Magistrate or Chief Presidency Magistrate or some other authorised and deputed officer for this purpose.

30. I consider that Penal Legislation fixing higher Age of Consent for marital cases is not likely to be more effective than legislation fixing the minimum age for marriages.

21. I would prefer positive Legislation rather than the social propaganda or sound education which in this country is doubtful and ridiculously slow. In answering this question various factors have to be taken into consideration. It may be admitted as a general rule that in every country the habits and customs have crystallised in their present form by the progress of social form and sound education, and in no country have they ever been regulated by Penal Legislation. In India the vast mass of the population is uneducated, illiterate and ignorant and very much trammelled by what they conceive to be injunctions laid down by the ancient Rishis. Social progress and education will probably take centuries to take good effect, and pressure by Penal Legislation will certainly tend to have some material effect in making them realize in a comparatively short time the evil of early marriage and consummation. In India nothing but legislation can achieve what in modern civilized countries are done by public workers, patriots, and promoters of national advancement and what contributes to real nation-building and the strengthening of the National resources. When education failed and Reform cannot Legislate you must and shall.

Oral Evidence of Mr. P. RAMANATHAN, Advocate, High Court, Madras.

(Madras, 20th November 1928.)

Chairman: For how many years have you been advocate of the High Court?

A. 20 years.

Q. How long have you been President, Vellala Mahajana Association?

A. For about 10 years.

Q. And Secretary of the Madras Landlords Association?

A. For about 7 years.

Q. I suppose the last has got nothing to do with social reform?

A. No.

Q. Has Vellala Mahajana Sabha got anything to do with social reform?

A. It is both social and political.

Q. What community do you belong to?

A. Vellalas mean cultivating classes. Among the Shudras it is the highest community.

Q. You are looking at this question from four points of view.

A. Yes.

Q. As regards the intellect of the off-spring you do not think it suffers?

A. No.

Q. As regards the physical condition of the off-spring, do you think it suffers?

A. To a certain extent it does suffer.

Q. The 3rd is physical effect on the father. Do you think there is any evil effect on the father?

A. No.

Q. The 4th is physical effect on the mother; is that the most important?

A. Yes.

Q. You have referred to the most intellectual community of Malabar. Do you mean Numbudris?

A. All the communities on the west coast are generally very intellectual.

Q. But have they all post puberty marriages?

A. As regards marriage they are not so strict as other communities are.

Q. Does the custom of child marriage exist among the Nairs?

A. It does not exist.

Q. Which of the two remedies do you like to have—the Age of Consent or the fixing of the age of marriage?

A. I would like marriage legislation.

Q. What is the age that you would suggest?

A. 16 for girls and above 21 for boys.

Q. Would you keep the same Age for Consent law supposing it exists?

A. No, that should be different.

Q. Supposing there is no law of marriage and there is the law of consent. Would you put it at 16?

A. Yes.

Q. What age would you have for extra-marital cases?

A. About the same age.

Q. Do you think that the law of marriage would not arouse resentment among the people?

A. Excepting perhaps the Brahman I do not think there will be any resentment.

Q. Is that the only class affected?

A. There are other classes as Komtis, Vaishas—they would not resent.

Q. Is there an advanced section of the Brahmins who would like this law?

A. A small section.

Q. What per cent. would like it?

A. About 10 per cent.

Q. Is there any class of people who feel it a social tyranny in being obliged to have pre-puberty marriages and who would rather be glad to have the protection of the law?

A. Yes.

Q. What percentage?

A. I think 50 per cent. to 60 per cent. They are running a risk but if there is law they would be protected.

Q. Are these the intellectual people who realise the responsibility, but cannot do it?

A. Yes.

Q. In that case the resentment would be confined only to 30 per cent. or 40 per cent.?

A. But the 10 per cent. are a victim to the custom. They are a sort of non-courageous people who do not come up to their convictions.

Q. Anyhow there is a large class of 50 per cent. or 60 per cent. who would, if the law were enacted, be relieved of the necessity of pre-puberty marriages. Is it not?

A. Yes.

Q. When is the garbhadan ceremony performed among the Brahmins?

A. I think about 15 or 16.

Q. When do the girls attain puberty generally?

A. Between 12 to 15.

Q. After puberty what time is allowed to pass before garbhadan ceremony takes place?

A. Among the Brahmins it is very short, probably less than a year.

Q. If a girl attains puberty at 13 will she have garbhadan ceremony before she completes 14?

A. Yes.

Q. Do most of the girls attain puberty at about 13 or 14?

A. In intellectual classes it is generally earlier.

Q. Do many girls have puberty after they have completed 14?

A. It is very difficult to say but they generally attain puberty earlier than the working classes.

Q. Are you in favour of merely a law of the Age of Consent without a marriage law or you think marriage law is necessary?

A. Marriage law is necessary.

Q. Do you know that the orthodox section insist on pre-puberty marriages?

A. Uniformly it is so.

Q. Can you suggest some means by which we can allow marriages, pre-puberty or otherwise, but at the same time effectually prevent consummation till the girl is 16?

A. The law of the Age of Consent alone would be ineffective without the age of marriage. It will be a dead letter.

Q. Have you reason to believe that there are cases of consummation of marriage below 13 at present?

A. I think it should be so amongst Brahmins amongst whom early marriage is prevalent. Amongst other communities it is not so.

Q. We are told that amongst Brahmins no consummation of marriage takes place before 13. Is that so?

A. I think that proposition may be taken as true. Of course there must be a few exceptions.

Q. As between the raising of the Age of Consent, and fixing the age of marriage, which do you think will be less resented?

A. The resentment would be against penalising marriages, because in the case of consent law there are loopholes.

Q. Do you think that the law of consent would by itself be a dead letter?

A. Yes.

Q. Amongst your friends or relations, have you come across any ladies of orthodox families and have you had a talk with senior ladies on this subject?

A. No; I have not much experience.

Q. Besides Brahmins, do you think there would be any resentment amongst other classes who marry early?

A. These classes simply follow the Brahmins as the higher community. They only move with the current.

Q. Do Vellalas observe pre-puberty marriages?

A. Amongst Vellalas it is all post-puberty marriage.

Q. What is the usual age of marriage?

A. 17 to 21.

Q. Comparing your girls as mothers at 17 or 18 with girls of other communities amongst whom there is early marriage and who become mothers, would you say that your girls are healthier or are they about the same as the others?

A. Our girls are decidedly better.

Q. Do the Brahmin girls and others suffer?

A. The mothers suffer. Not the children so much.

Q. Amongst you where there is late marriage, is the suffering much less?

A. Our girls do much better than others. Amongst us though marriages are immediately followed by consummation, between puberty and consummation of marriage there is a number of years generally intervening.

Dr. Beadon: You say that the age of marriage of girls is generally between 17 and 21. What is the age of marriage of boys?

A. It is about 22 to 24.

Q. Is it a fact that the Vellalas are of better physique and live longer than the Brahmins? You say that they are married between 21 and 25 whereas the Brahmin begins a married life at the age of 18.

A. As regards men, there will not be any difference in the longevity of life.

Q. Are the Vellalas generally poorer than the Brahmins?

A. No; they are better off.

Q. Have you met any cases in which early consummation has been harmful?

A. The largest mortality amongst children is in this Presidency more than in all other parts of the world. That shows that early marriage has something to do with infant mortality.

Q. We have been told that in places where early marriage is common, infant mortality is lowest. Have you come across any cases in which there have been harmful results as the results of early consummation and early motherhood?

A. I cannot recollect any particular instances.

Mrs. Nehru: In para. 18 you say that in marital cases the trial should be by aged citizens specially appointed and assisted by medical experts, does it mean that you do not want to have judges or magistrates to try these cases?

A. No; because that sort of trial people will resent. As I have suggested a responsible person like the Referring Barrister in England should proceed to the place and hold a private investigation. That would be better. If it is an ordinary court people will not go to the Courts at all.

Q. Supposing there is a magistrate and two assessors who may be very experienced and aged persons, do you still want that medical men should be on the tribunal?

A. I do want them.

Q. Do you think their experience is necessary for this purpose?

A. I think in these matters much legal knowledge is not wanted. Medical experts would do and they would be better people in my opinion.

Q. Do you not realise that a doctor will be necessary only so long as the determination of the age is concerned?

A. Sometimes even medical men have legal knowledge.

Q. What is your objection for having a judge assisted by a jury?

A. In cases like this I would rather have elderly people than ordinary jury men. I want tribunals of a special type consisting of doctors and elderly people to examine these cases.

Q. Who would appoint this tribunal?

A. It is Government who would ultimately also deal with it. I would like them to be appointed by Government from the sort of people I want.

Q. To whom would you give the right of complaint? At present any member of the public can complain. Would you leave it as it is?

A. I would authorise a responsible person like the Referring Barrister in England who may be appointed by Government.

Q. Would you give the power to local panchayats?

A. The panchayats mostly consist of illiterate people. They very often understand nothing, neither do they deal with anything.

Q. To whom then would you give the power of complaint?

A. A board of people whom Government might appoint to exercise the provisions of the Act.

Q. If this power of complaint is given to certain recognised social reform organisations or special committees appointed for the purpose, will that be effective?

A. Social reform associations mean nothing. Special Committees can be appointed for the purpose.

Q. By whom would you like such committees to be appointed?

A. By Government.

Q. Would you have such committees in each village or Taluk or District?

A. That is a matter of detail which can be settled later.

Q. Would you like the interference of the Police in these matters?

A. No.

Q. But then who will investigate the cases?

A. The Committees I suggested must be responsible for the carrying out of the whole from beginning to end.

Q. What punishment would you give in marital cases?

A. In the beginning it should be fines only.

Q. At present there are varying punishments. Would you have it fine only regardless of the age of the girl?

A. When the Act comes into force, and people are punished, public opinion will prevail.

Q. Would you keep the punishment below 12 as it is?

A. There it may be imprisonment. Below 12 it may be imprisonment and above 12 fine only.

Q. What is the maximum that you would advocate in the case of offences on girls below 12?

A. The punishment should be deterrent. I think one month would be deterrent enough for a big man.

Q. Under 12 you have to take into consideration injuries also resulting sometimes in death.

A. I would provide for these cases also.

Q. What amount of imprisonment would you have for cases below 12?

A. The present punishment of 10 years is too much. I would reduce it to 5 years.

Q. What age will you have in extra-marital cases?

A. 16.

Q. Would you have 18, considering that for other purposes 18 is the age, for instance the age of majority?

A. Yes, it can be 18.

Mr. Mitra: You say that there is a feeling amongst Brahmins that if girls are not married before puberty, they will be outcasted. Is that so?

A. Yes; there is fear of their being outcasted, but the custom is not generally broken. They never get into the scrape and all the Brahmin girls are married before puberty.

Q. Are there exceptions?

A. They are not known to anybody outside. Only people in the family and near relations know about it. Therefore no cases of outcasting occur.

Q. You say that the Brahmins of South India are the most intellectual people in the whole of India and second to none in the whole of the world. Is it so in spite of child marriages, or is it due to child marriages?

A. It is very difficult to say what is the reason, but it is a fact. Whenever the Government of India wants to send a person to Canada, Australia or South Africa, it has to send a South India Brahmin. I am therefore inclined to think that the Brahmins produce intellectuals. It has been so though early marriages have been there. This shows that early marriages

have not tended to lessen the intellect. I might also point out that out one thousand advocates in Madras not less than nine hundred are Brahmins. I will therefore be justified in inferring that they are intellectually superior to other communities, and it is also the community where child marriage is entirely followed. But I hesitate to say that it is due to child marriage, for if I say so the whole world might probably take to it. But the fact of the child marriage is there and the fact is also there that they are intellectually superior to other communities.

Mr. Bhargava: You say that physically the Brahmin men are all right. May I take it that the Brahmin women are of puny stature, and may I take it that the evil effects of child marriage and early consummation are visited on the mother?

A. Yes.

Q. You say that the girls even before they have had consummation are puny in stature. Can you give us any physiological or pathological reason for it?

A. It is because woman has to undergo the strains of child-birth whereas man goes scotfree. He is only the procreator, if I may say so.

Q. But is it not true of every other community?

A. But other communities do not subject themselves to early marriages and early motherhood.

Q. So far as men are concerned, do Brahmins join the Army?

A. No; by temperament he is a priestly class man.

Q. As regards their being intellectually superior to other communities, do you know that representatives from other countries are sent along with these Brahmins about whom you just spoke?

A. Yes.

Q. This being the fact, how can you say that they are second to none in the world?

A. I can say intellectually they are. They have passed the highest examinations in the world, and I draw a definite conclusion from it.

Q. Does not that only mean that the Brahmins of South India are capable of passing examinations?

A. Passing examinations is one side of testing one's intellectual abilities and it is the proper test.

Q. Have Brahmins contributed anything to the discoveries of modern science?

A. They did not care for it. They ruled communities in the spiritual world. They had enough of their sciences like philosophy and everything else.

Q. So their progeny did not add anything to what had been left them by their forefathers?

A. At the same time they are carrying on from day to day.

Q. What is your warrant for saying that the Brahmin of the present day is intellectually as strong as the Brahmins of the Vedic times?

A. Of course they are going down gradually.

Q. Has not early marriage brought about intellectual deterioration amongst them?

A. No; they are still producing the old commodities.

Q. They might perhaps be better than other communities. But that does not mean that they are as strong as their ancestors were. So far as northern India is concerned, will you be surprised if I tell you that other communities are holding their own against the Brahmins in this matter?

A. I am positive about the intellectual superiority of the South India Brahmin, because he is to be found in every part of India, and it is he that actually rules the country.

Q. You say that you are speaking of the Brahmins with some knowledge of the feelings of the parents and the guardians of the girls and boys in this Presidency, and that they are for raising the Age of Consent in marital cases to 15 and in extra-marital cases to 16. May I take it that the Brahmin boys and Brahmin ladies are for the change?

A. The boy has no opinion in the matter. It is the parents that like the change. They see that other communities are doing better. They will never ask for it, but if the law comes, it will do them good.

Q. You say that amongst Brahmins there is a mock maturity ceremony performed. Does consummation also take place in such cases?

A. Such cases do take place, but they are very rare.

Q. You also say that there is a feeling amongst Brahmins that they would be outcasted, if they do not marry their girls before puberty. Do you think that raising the age will be a panacea for this also?

A. Yes.

Q. What do you mean by saying that so far as the trial is concerned you would be satisfied with a responsible person like the Referring Barrister in England?

A. I have said that I would be satisfied with a Committee appointed by the Government.

Q. You want that there should be some sort of sanction by the District Magistrate. At the same time you want these Committees. Are these not mutually exclusive?

A. I gave them only as alternative suggestions.

Q. So far as sanctions are concerned, do you realise that it has been found that the system is attended with possibility of harm. People may be corrupt and may make money by obtaining sanctions. You want that before these cases come to court, there should be a preliminary enquiry and the cases should not be entrusted to the Police, but that they should be enquired into by a Magistrate or by some special officer. After the preliminary enquiry if it is found that there is a *prima facie* case, then it can be sent to court. Is that so?

A. Yes.

Q. As regards the question of bringing these cases to court, you are in favour of giving the power of complaint only to special committees. But if other safeguards are provided, what is your objection to giving the right of complaint to individuals of the public?

A. I do not think any member of the public will have the moral courage to do it. If that is done, I do not think cases will come to court at all.

Q. Would you rather leave this power of reporting as it is and further insist upon these societies being charged with the duty of reporting?

A. Yes.

Q. Are you in favour of making it obligatory on every person who comes to know of such cases to report it to the proper authority?

A. Yes.

Mr. Shah Nawaz: You say that in your community both in the villages and in towns there are late marriages. Do you think there is immorality amongst unmarried girls?

A. The Indian family system is such that there is absolutely no danger.

Q. What is the membership of the Vellala Mahajana Sangam?

A. It is about 100 or 150.

Q. Are you also the Secretary of the Madras Landlords Association?

A. Yes; But that association does not deal with questions of social reform. It is a body which deals with quasi-political questions, and is composed of respectable and big men.

Q. Are you of opinion that the opposition to Sarda's Bill will die away once the Bill is passed into law?

A. I think so. There will not be any agitation if it is passed.

Q. We have been told that Brahmins will disobey the law?

A. If there is a law they will come round quickly. Their protests will be confined only to newspapers.

Q. What makes you say so? Have you known Brahmins well?

A. I know them much better than many others.

Q. Do you really think that it will be a mock opposition?

A. Yes; somebody will be writing in the newspapers for some time, and then the whole thing will die down.

Q. Do you think that man is a creature of habits and customs?

A. Yes; the Brahmin's belief in religion is all bogus, because he does not believe in Manu himself. The other day an Aiyangar Brahmin married his daughter to a Muhammadan but such things though exceptional, prove that times are changing.

Q. You say that enlightened public opinion is in favour of raising the Age of Consent. May I know if you have tried to associate with people or attended meetings or discussed questions with members of the public?

A. I have attended almost every meeting in Madras.

Q. Were there public meetings in Madras on this question?

A. I am not aware.

Q. You say that childhood ceases at 5 and womanhood commences at 18. Is that so?

A. Yes; that is Manu.

Q. One of the witnesses to-day seriously suggested to us that we should have a system of registration of consummation before the husband approaches his wife, so that we might be in a position to know whether there is a breach of the law. Do you agree?

A. That would be a little abnormal. Why should any man report consummation to anybody? Only very near relations will go to these functions, and nobody will report breaches of the law. It will therefore be unworkable.

Mr. Kanhaiya Lal: In whose house is the Garbhadan ceremony celebrated amongst the non-Brahmins?

A. It is the right of the bridegroom, and among well to do people it is done in the bridegroom's house.

Q. Amongst the rest of the communities?

A. Amongst the poor people the ceremony is sometimes not observed at all. In 99 per cent. of the cases where it is observed it is done in the bridegroom's house.

Q. I do not exactly understand what kind of trial you are suggesting. Should it be by a mixed tribunal, namely, a magistrate and two non-officials?

A. That is the thing I had in mind. I suggested that it should be a special tribunal which may consist of anybody, and a magistrate is not excluded.

Q. Would you recommend the constitution of a separate matrimonial court for this purpose, consisting of a magistrate and two non-official sitting as co-judges?

A. Yes.

Q. Do you think these courts will create better confidence in the minds of the public?

A. Yes; they will know the customs of the land which some of the ordinary European judges may not know.

Q. Will you make over all marital cases to these courts irrespective of the age of the girl?

A. Yes.

Q. With regard to marital cases, would you allow the cases to be compounded with the sanction of the court so that good feelings might be restored between the husband and the wife?

A. Yes; in suitable cases the parties might like to become friendly and in such cases the cases might be made compoundable with the sanction of the court. In serious cases where there are injuries they might be made non-compoundable.

Written Statement, dated the 20th August 1928, of Mr. M. K. ACHARYA, M.L.A., Madras.

I have the honour to acknowledge receipt of your printed letter No. 42 A. C. C., dated 21st July, and to reply as follows:—

I have taken your questionnaire, and given short answers to some of the questions. I am also appending a general note dealing with the whole subject-matter of both Dr. Gour's and Mr. Sarda's Bills; for as you rightly observe the two are intimately connected. I am on the whole in favour of cautious legislation of some kind, for preventing all betrothals below the age of ten, and consummations below the age of fourteen. But in my opinion neither of the two Bills is framed satisfactorily. My chief objection to both the Bills is that they are based on imaginary or magnified evils, that the remedies proposed by them follow altogether Western or Non-Hindu social ideals, and their adoption therefore will bring in greater evils than those they are intended to remedy. Question No. 12 on your list is in my opinion a very important one; and it is for the supporters of the Bills to produce the statistics that will help us to a clear answer. I find that the question has been taken up and answered in the negative by Babu Charu Chandra Mitra in a pamphlet entitled "A few remarks on the Child Marriage Bill"; I am therefore sending you a few copies of the pamphlet for circulation among the members of your Committee.

It is unfortunate that the Chairman of your Committee at a recent public meeting at Simla is reported to have expressed his great contempt for orthodoxy, and his strong support of the Bills introduced into the Legislative Assembly. I wonder if there is any member of your Committee who keeps an open mind. If there be any, and if any further oral evidence from me is likely to be of any use, and if the time and place that may be chosen are not inconvenient to me, I shall certainly be glad to meet your Committee and answer to the best of my ability any questions that you may like to put to me.

Short Answers to some of the Questions.

1. None that I know of.

2. *Vide* my General Note.

3. Certainly not frequent in my part of the country. There must be always and in every country a few wrong-doers who will dare to defy any law however stringent.

4. In my part of the country no marriage consummation ever takes place before 13.

5. Generally between 12 and 13 among the middle classes; and between 13 and 14 among the working classes, these latter, however, being married only after puberty.

6—7. No. No such consummation generally takes place.

8. Garbhadan is usually performed from between six months to one year after puberty.

9. That is the only test that nature has provided.

10. *Vide General Note.*

11—13. No.

15—16. No.

13, 17 and 20. *Vide General Note.*

General Note on the Age of Consent and Child Marriage Bills.

I. *Age of Consent Bill.*—This is based on the fundamentally wrong notion that a female after a certain age can consent to sexual intercourse with any man of her choice. This is purely a western notion. The Hindu idea is that no woman of any age can consent to sexual intercourse with any man other than her lawful husband. Question 10 is thus based on quite a wrong assumption. Indeed there are two important differences between the Hindu and European inter-sex ideals:—(1) to Hindus Marriage is an irrevocable religious bond; (2) sexual intercourse can take place only after the marriage sacrament. Among Europeans Marriage is only a matter of convenience; it is a purely social contract entered into and dissolvable by mutual consent, or through breach of contract by either party. Very often in the west marriages come in only to validate pre-marital sex-unions; the latter not being considered strictly immoral. It is on this low conception of sexual morality that the principle of any Age of Consent is based. I am aware that in this very imperfect world of ours it is not easy for average men and women to follow the highest ideals of life; I know that even among Hindus there are not a few who will indulge in sexual pleasures in ways not sanctioned by morality and religion. This is the only justification for a rape section in the Indian Penal Code. In dealing with wrong-doers generally coming under this section I have no objection to the so-called "Age of Consent" being raised to 14; but no husband should be brought under this heinous section. It is an imperfection of the present law that a husband approaching his lawfully wedded wife too closely before a certain age has to be charged under this section. His offence in my opinion can only technically be called "rape"; and therefore the punishment in this case ought not to be exemplary or vindictive but purely preventive. There is a further strong reason for this. Any hard punishment on the husband will ruin the very girl-wife whom the reformer in his blind zeal thinks he is protecting; heavy punishment more often than not, may estrange the girl and her husband for life; nor can a Hindu girl divorce her husband, nor remarry. I would, therefore, limit the punishment for what may be technically called "marital rape" to simple imprisonment for a period which shall terminate when the wife attains the age of 14 years, or with fine or with both.

II. *Child Marriage Bill.*—This Bill as altered by the Select Committee, is based on certain very wrong imaginary assumptions. It is not correct to say, as certain superficial Westerners and cheap social reformers do say, that all Indians are addicted to child marriages. Here are some statistics taken from the Census Report of 1911 (those of 1921 are not likely to lead to very different conclusions) relating to the "Civil condition" of every 10,000 persons of each sex.

A—All Religious—Among 10,000—

Years.	MALES.			FEMALES.		
	Unmarried.	Married.	Widowed.	Unmarried.	Married.	Widowed.
All ages . . .	4,889	4,557	544	3,440	4,829	1,731
0—10 . . .	2,648	60	2	2,613	165	7
10—15 . . .	1,009	150	6	153	430	15
15—40 . . .	1,152	2,697	168	218	3,379	459
Above 40 . . .	90	1,650	368	26	855	1,250

B—Hindus—Among 10,000—

Years.	MALES.			FEMALES.		
	Unmarried.	Married.	Widowed.	Unmarried.	Married.	Widowed.
All ages . . .	4,701	4,720	579	3,176	4,947	1,677
0—10 . . .	2,549	77	3	2,570	201	9
10—15 . . .	961	183	7	487	480	17
15—40 . . .	1,089	2,992	178	159	3,416	506
Above 40 . . .	102	1,638	391	20	850	1,845

It will be clear from these figures that child marriages or betrothals even among Hindus occur among only a very small percentage of the population. Thus in 1911 there were only 260 boys "married" before 15 or 5.5 per cent.; and only 201 girls "married" under 10, or 4 per cent.; and in all these cases marriage means only betrothal, and not consummation. Again in 1911 girls married between 10 and 15 were only 480 or 10 per cent.; of whom those married between 10 and 12 were probably only another 4 per cent. This clearly shows that the majority of girls, 90 to 92 per cent. even among Hindus are wedded only after puberty, and not more than 8 to 10 per cent. before puberty.

Now this 10 per cent. of ante-puberty marriages are mainly if not wholly due to the fact that among Hindus certain communities like the Brahman and the Vaisya consider it part of their religion that their girls should be given away in wedlock before they attain puberty. Now taking again the Census figures of 1911, out of a total Hindu population of 217 millions the Brahmans were 14.6 millions, who together with Vaisyas and other ante-puberty marriage communities were doubtless some 21 millions or 10 per cent. of the Hindus which tallies with the percentage of girls married before puberty. I know that the Census returns show a certain number of girls as married before 15 and 10 in all communities; that is even among Non-Brahmans and Non-Hindus. This shows that even among the latter communities, some parents prefer to marry away their girls early—not on religious but on other grounds. I hold no brief for these; Mr. Sarda's Bill will not affect these. But in the case of the 20 or 21 millions of Hindus to whom ante-puberty marriages are religious injunction, Mr. Sarda's Bill is obviously very objectionable; it does seek to interfere with what these

millions of people regard as an essential part of their religion. It is no use arguing that their notions of such religious injunction are based on pure superstition; that they are not founded on a correct interpretation of the original texts and so on. The Central Legislature is not the body competent to decide what are the correct interpretations or the truly authoritative texts of any religion. The fact is incontrovertible that to the bulk of Brahmans, and to some other Hindu communities, marriage before puberty is, and has long been, a religiously binding custom.

These are the facts. Now what are the lines on which sane legislation may be undertaken in the best public interests? I do not think that the most maligned orthodoxy wants that little girls of 12 or even 13 should live as wives with their husbands. Therefore legislation may well be undertaken prohibiting consummation before a girl attains fourteen years. I am also in favour of prohibiting all betrothals before the age of 10. This does not mean that all betrothals should or will take place at the age of 10, or all nuptials at 14; these are only the minimum age limits for prohibition.

And in my opinion my suggestion will serve best our present-day conditions, and also conform to the higher ideals of Hinduism. It is known to every one that the Hindu, man and wife, do not immediately after marriage set up their own home, but that the girl-wife has to enter her husband's home and become part of it. To train the girl's mind to her life in her new home, to get her sufficiently well acquainted with her new relations, an intervening period of 2 or 3 years between betrothal and consummation is very desirable. The lack of such opportunities for mutual acquaintance and adjustment early enough in life is the true cause of a lot of Divorce cases that crop up in Western countries. In fact according to Judge Lindsay of Denver, American girls with a view to avoid any regretting later are betaking to pre-marital sex-unions; and artificial methods of birth-control; and he thinks the wide prevalence of such unions in most modern America will justify their being legalised as "Companionate Marriages". This is the necessary logical outcome of secular ideals of marriage. Mr. Strachey's recent article in the "Nation and Athenium" reviewing Judge Lindsay's publications, shows well in what direction Western thought is shaping on the problem of inter-sex relations. Luckily the Indian system is far less exposed to such perils. Let us take care that in trying to remedy old evils we do not make room for worse ones to take their place.

Lastly, whether early marriages are a cause of high infantile mortality, and whether they tend to undermine the health of Indian married women, are questions which should be very carefully investigated into before coming to any conclusion. Babu Charu Chandra Mitra, Attorney-at-Law, Calcutta, in a pamphlet entitled "A few remarks on the Child Marriage Bill" has taken up this question, and in the light of a lot of statistics quoted by him, has answered it in the negative. I have also come across the following very interesting remarks on this subject of infantile mortality in the 1911 Census Report, Volume I, Part I, Chapter V, "Age," page 152. It is there pointed out that there is a great correspondence between infantile mortality and the birth-rate; and in the expert opinion of Colonel Robertson, Sanitary Commissioner with the Government of India, the similarity "is not due to any direct connection between the two, but to the action on both of the same outside cause—malaria". Unless in other words, the terrible economic poverty of the masses and malaria are remedied, no amount of Child Marriage Legislation will solve the problem of infantile mortality in India.

To conclude: I am of opinion (1) that marriage consummation of girls before fourteen should be prohibited; marital offenders being given only preventive punishments; and (2) that marriage betrothals of girls under ten years may also be prohibited. Taking Indian conditions as they are, I feel strongly that in the case of the majority who, are accustomed to post-puberty marriages it is quite unnecessary, and in the case of the minority to whom ante-puberty betrothals are religious injunctions it is quite wrong to legislate any further. The rest must be left to the growth of public opinion.

Oral Evidence of Mr. M. K. ACHARYA, M.L.A., Madras.

(Madras, 21st November 1928.)

Chairman: How long have you been at the bar?

A: I have never been at the bar.

Q: What community do you belong to?

A: I am a Brahmin by birth.

Q: Which Brahmin?

A: I am a Tamil Brahmin.

Q: That means Ayer.

A: I am Acharya. Among the Tamil Brahmins also there are two classes, the Ayers and the Acharyas. We follow what is called the Ramanuja School of Philosophy.

Q: Before asking you regular questions I should like to clear up one or two points stated in your answer. You say "it is unfortunate that the Chairman of your Committee at a recent public meeting at Simla is reported to have expressed his great contempt for orthodoxy and his strong support of the Bills introduced into the Legislative Assembly". Do you mean that the report was unfortunate?

A: Yes. It was stated on the floor of the house that the report was incorrect in answer to a question which I asked.

Q: And you accepted the answer.

A: Yes.

Q: The other point concerns more or less all members of the Committee. You say, "I wonder if there is any member of your Committee who keeps an open mind". Have you any doubt about that? I don't know what has led you to that conclusion.

A: It is the reports in the press about the members of the Committee saying so many things.

Q: We have been appointed by Government to investigate into facts relating to the Age of Consent and we are trying to get all manner of opinion. I may assure you that more in Madras than anywhere else where I am told orthodoxy has a stronghold we are trying to get all shades of opinion. We are trying our best to get witnesses representing all kinds of opinion. We have declared that anybody who is willing to tender evidence in Tamil may do so. I think you will give credit to all of us that we have the same motives as you have in representing a class. We take it that your motives are perfectly honest.

A: I am not representing any class.

Q: Are you not speaking on behalf of the Brahmins?

A: I am no authority for them. This is my personal opinion and you may take it for whatever it is worth.

Q: At any rate, I would ask you to give us credit, as you would like to have credit for yourself, for our opinions being honest. Our opinions are yet perfectly unmade and they are in the course of being made. They will all depend upon the amount of evidence we receive and the inference that we are able to draw from it.

A: I would apologise if I have said anything based on wrong reports.

Q: There is no occasion for an apology. I wanted to disabuse you of the idea that had somehow crept in your mind. I will now proceed to regular questions. I take it that the gist of your evidence is that you want the Age of Consent to be 14 within marriage.

A: Yes.

Q: And you want a marriage law and fix the age of marriage at 10.

A: That is the maximum I would go to.

Q. Do you consider legislation on these lines is safe enough?

A. Yes, on the lines I suggest it will be safe enough.

Q. Are you in a position to say that this will be acceptable to or, at any rate, not resented by the Brahmin community of Madras?

A. I don't think they will resent it, and that for the simple reason that it is what is now normally obtaining. Very few girls are betrothed before 10 and no girl begins to live as a wife before 14.

Q. Are marriages not consummated before 14?

A. I don't think. There may be exceptions, but generally that is the practice. This is my belief which I have got from very large observation and talk with so many people.

Q. You don't think they will object to raising the Age of Consent to 14?

A. I don't believe that they will raise any objection. I have talked with several learned pandits and they had no objection to that age being fixed.

Q. Is 14 the minimum limit? What is your ideal? Would it be 16?

A. In India a girl becomes perfectly competent to give consent at 14.

Q. Your ideal is 14 and you are beginning at 14 and that is the final legislation that you would have. Is that so?

A. Yes. Otherwise the law will interfere with the ordinary course of nature.

Q. What is your authority for saying that a girl is competent in India at 14 and that it is the safe age for motherhood and no trouble comes either to the girl or the children?

A. 13 is the average age of puberty and a year afterwards the girl becomes naturally perfectly qualified for safe wifehood and motherhood.

Q. Why do you say perfectly naturally qualified? Have you got some medical authority?

A. Instances have been recorded by those who have made a study of labour cases of safe mothers at 13 and before. That leads us to the conclusion that 14 is perfectly safe in a tropical country like India. My wife became mother at 14. She was perfectly alright. She is now 42 and there has been no trouble. I know of a girl of 10 who is quite healthy.

Q. You can't deduce anything from such individual cases. You say girls of 12 and 13 have been seen to be quite healthy. Have you not known of any girl who has suffered at that age?

A. No.

Q. Is that the reason why you say 14 is quite safe?

A. I say this on account of large observation which I have.

Q. I take your experience as one of the tests, but have you got any medical authority also?

A. Havelock Ellis whom I consider to be a great authority says, in the temperate regions of Europe and North America the average of the appearance of menstruation, the critical moment in the establishment of complete puberty, is fifteen and in those lands where the average age of puberty is higher or lower, the Age of Consent should be raised or lowered accordingly. He also says, "among peoples living under natural conditions in all parts of the world, it is recognised that a girl becomes sexually a woman at puberty; at that epoch she receives her initiation into adult life and becomes a wife and a mother". That is the conclusion drawn by that great authority.

Q. You consider that puberty is a necessary indication of the age when a girl is fit for motherhood.

A. That is nature's indication.

Q. Why do you put one year beyond that then?

A. Because we do not allow Nature to have its free course. The legislator has not only to take into consideration the natural indications but also the distortions of Nature by man's perversity.

Q. But those distortions may lead somebody to say that it should be 15 and others to say that it should be 16. How will you settle it?

A. That is a question of opinion. One year after puberty is in my opinion quite a safe time. According to medical authorities of the West onset of menstruation is the unerring biological event in the life of every female that qualified her for wifehood and motherhood, but considering the conditions in Southern India at least I have extended it by one year.

Q. I thought you base it more on your experience.

A. Also on my experience and my experience is sound.

Q. Are you aware of the authority of Sushrut and Charak who say that the safe age for motherhood is 16?

A. The age in which they lived is different from what it is now. Girls are now very precocious, especially the upper and middle class girls; I can't say at what age the girls attained puberty in that age.

Q. Is there anything in Sushrut to show that girls attained puberty later in those days than they do now?

A. I have not studied these Shastras and I do not venture any opinion. I don't know in what region they lived. They were not in Southern India at least and even now I can't say when do the girls of Punjab attain puberty.

Q. Are you of opinion that if you go beyond 14 to 16 and no consummation takes place till that age there is any danger to the morality of girls?

A. That will depend upon environments.

Q. Take, for instance, the Brahmin families amongst whom marriages take place at 13 or 14?

A. Among Brahmins and non-Brahmins surroundings are not different. If there is an artificial check there is a danger of the girl suffering both mentally and bodily.

Q. But is there the danger of the girls going wrong?

A. Wrong in what respect?

Q. Sexually wrong?

A. It is very natural that they should be. They should satisfy their natural cravings. In fact according to Judge Lindsay in America 45 per cent. of High School boys and girls take to sexual intercourse quite as a natural pastime.

Q. You think there is danger among the Brahmin community?

A. I am greatly apprehensive.

Q. Among the Brahmin community is there a large number of child-widows below 14?

A. There is a large number certainly.

Q. In their case do you hear of much scandal?

A. Sometimes.

Q. How often?

A. I can't say.

Q. Are there many such cases?

A. Not very many. The environments, the social and religious ideals keep them fairly protected.

Q. You don't think that the same environments and the same traditions will protect the unmarried girls up to 16?

A. There will be greater temptation for married girls than there is for widowed girls, for the simple reason that the husband will frequent the girl very often and you can't prevent the husband from having free intercourse and therefore there is greater likelihood of their going wrong. It is not also right in my opinion to prevent them from having intercourse.

Q. Is there the same danger in the case of non-Brahmin girls?

A. There is not much difference between Brahmin and non-Brahmin girls

Q. I thought there was difference. Among the non-Brahmins remarriage is permitted while among the Brahmins it is not.

A. Among the high caste non-Brahmins, the Vellalas, Comties, Chetties and Mudaliars no remarriage takes place.

Q. Is it prohibited as amongst the Brahmins?

A. I think they also observe the Brahminical Code.

Q. Do you think it is incumbent on them?

A. Remarriage also sometimes takes place amongst Brahmins.

Q. But is there the social ban?

A. That is among the non-Brahmins even. I have known cases of social odium among Christians even. That is among all castes.

Q. You say, Ellis declares, that in mothers over 20 the proportion of abortions and miscarriages is twice as great as in mothers between the age of 15 and 20 and are also superior in this respect to mothers between the ages of 20 and 30, and that between 15 and 20 is the best time for girls becoming mothers.

A. Yes.

Q. Even in tropical countries?

A. Yes.

Q. You accept that age for India or would you make any modification?

A. I will accept that age for India also. That age is certainly acceptable to India.

Q. If medical opinion is unanimous or almost unanimous here in India that a girl is not fit to be a mother, and that there is always the danger either to her health or the health of her children, before she is complete 16 would you modify your opinion?

A. I will have to examine that medical opinion very carefully before I agree. I don't believe that first class medical opinion is available at all.

Q. Supposing you are satisfied that that is the correct opinion, would you modify your view?

A. My presumption is that that opinion cannot be correct.

Q. You think it cannot be correct and therefore you won't modify your opinion?

A. I won't. There are as many faddists among medical men as among men of other professions.

Mrs. Nehru: Do you consider Sushrut and Charak also to be faddists?

A. I have already said that they lived in a different age and we don't know what the conditions were then.

Chairman: Do you accept the proposition that each generation has to make its own laws?

A. The wisest and the most selfless in each age have a right to modify the laws. If there are any Rishies I will bow to their declaration.

Q. In the absence of Rishies you don't think you have any right of legislation; you don't think there is any warrant.

A. In the absence of Rishies legislation must be carried on on lines of least resistance, i.e., with the religious minded opinion backing it up.

Q. In Gujrat there is a custom that all the children in a village must be married within a particular period and after that for 12 years no marriage can take place. Any children after that will have to wait for another 12 years. In this sort of arrangement marriages at even 5 or 6 take place. Do you think we have any right to legislate about that?

A. If it is proved to me that this is a religious tenet, it cannot be violated.

Q. I may tell you it is a custom as binding as any other.

A. The matter will have to be examined. If it is proved to me, if I am satisfied that it is a religious custom which has come down from ages and is binding I won't interfere.

Q. They regard it as a mandate from a certain Goddess.

A. If it is proved to be their religion, I won't interfere. This is the first time I have heard about it and so I cannot give any very exact answer. As a general rule any deep religious custom observed on a large scale by any large community should not be interfered with. The State as at present constituted in India, has no right to interfere with religion.

Q. With regard to the Age of Consent do you think that the Hindu ideal is that no woman of any age can consent to sexual intercourse with any man other than her lawful husband?

A. That is the Hindu ideal. The notion that a female after a certain age can consent to sexual intercourse with any man of her choice is altogether foreign to India.

Q. Do you mean to say that before the foreigners came no such cases occurred?

A. They may be occurring.

Q. Have you not heard of a single case of an unmarried girl having run away with a certain person?

A. These cases are rare.

Q. But the law of Age of Consent is for such cases when they do occur. There is no recommendation that these cases should take place and the Age of Consent Law should be applied. Do you accept that position?

A. Yes.

Q. Supposing we fix the age at 14, would you punish the husband if the law is broken?

A. Yes.

Q. What punishment would you suggest?

A. In the interests of the girl the utmost punishment that I will give is 6 months' imprisonment.

Q. In marital cases wherever they have come to light what has been the punishment given to your knowledge?

A. I have not heard of marital case at all.

Q. So really you have no experience of the punishments awarded in such cases.

A. There have been no cases in Madras.

Q. And you don't expect any cases if the age is fixed at 14?

A. No.

Q. Between the ages of 10 and 15 out of a total number of 1,000 girls, married, unmarried and widowed girls, 533 are unmarried, 430 are married and 15 are widows.

A. These are the figures given in the Census Report of 1911.

Q. Amongst Hindus between 10 and 15 out of a total of 994, 487 were unmarried, 580 married and 17 widows.

A. Yes.

The witness also referred to some figures in the Madras Provincial Volume in Chapter under Marriage, Volume XIII, Part I.)

Q. I believe you accept the fact that except in certain communities child marriages are not a rule. There are only certain communities in which child-marriages, i.e., below 15 take place.

A. I don't think that this will be borne out by statistics. I was also under that impression. In the 1921 statistics I find that there are figures against almost every community. I was struck by the fact that against other communities the figures was 100, 200 or 300, and against Brahmins it was only 2 or 3. That was a startling revelation to me. The figures between

the ages of 12 and 15 warrant me in saying that girls of those ages are married more among other communities than among Brahmins.

Chairman: Now with regard to the efficacy of this law, do you think that these cases will come to light?

A. After all we can only provide for laxities. That is all we human agencies can do.

Q. Don't you think that at least 20 per cent. of the cases will come to light?

A. I do not believe there will be even 10 per cent. of the whole cases in South India. The law is being obeyed now and there is no further need for it.

Q. Have you had any occasion to study the Shastric aspect of this question?

A. I have carefully refrained from basing my argument on Shastric points for various reasons.

Q. Do you rely more on customs?

A. I rely more upon what I would call scientific evidence.

Q. Not even on customs?

A. Customs change and people change. We are all changing and we will have to change the custom which is wrong. Custom is not inviolable. I honour and revere the Shastras because to me they contain the highest ideals, but I do not like to discuss them here because this is not a place where I can discuss the Shastras.

Q. Do you believe that there are Shastric injunctions making pre-puberty marriages a necessity?

A. Yes. I believe there are Shastric injunctions making pre-puberty marriages a necessity in certain communities, for instance, amongst the Brahmins and the Vaishyas.

Q. Do you hold that the injunctions you have seen lay down that a marriage must be a pre-puberty marriage amongst the Dwijas.

A. I believe so. I think they are very right and very rational in so doing.

Q. That is a matter of opinion.

A. I know that there are very different opinions about the Shastric injunctions.

Q. I want to know your opinion whether you consider them mandatory or recommendatory?

A. I consider them to be mandatory.

Q. Don't you think there is any Shastric injunction making it imperative as in the case of pre-puberty marriage, that consummation of marriage must take place within the first 16 days?

A. There are no such mandatory injunctions so far and the Shashtra also have laid down as a general rule that all the injunctions can be modified by Sadachara.

Q. Are you aware of the fact that amongst the Brahmin families where pre-puberty marriage is the rule, there are cases of concealed puberty?

A. There may be but not to my knowledge.

Q. Are you prepared to say that girl-motherhood before 14 is one of the causes of the deterioration of mothers and the loss of children?

A. I don't believe that there are many girl-mothers before 14 is complete. There are very exceptional cases.

Q. Then most of the cases you know are over 15.

A. Yes.

Q. Don't you think that motherhood below 16 is dangerous?

A. I don't think so. I shall give you a concrete instance. My wife became a mother when she was 14 and she had not suffered on account of that.

Q. If the practice is now 14, why do you say that the law should be enacted at all?

A. Because the present age 13 may be raised to 14, without any hardship to anybody.

Q. If it is observed, where is the need for it?

A. Murder is not committed every day. So we want to make penal legislation for exceptional cases.

Q. Do you think that consummation generally in most parts takes place before a girl completes 14 or would you put it below 14 and 15?

A. I think there are many girls in South India where consummation takes place between the ages of 13 and 14. That also depends very much upon the girl.

Mr. Kanhaiya Lal: You say you wish to rely on scientific evidence. I wish to lay before you certain concrete facts for your consideration. It has been pointed out to us that between the ages of 10 and 15 and 15 and 20 the number of females that die is in some places 50 per cent. higher than the number of males between the same period. Would you attribute it to maternity?

A. I will have to investigate the whole thing because I haven't studied it but I don't think I will attribute it to maternity until it is proved. Mere deaths may be due to other causes.

Q. I would like you to suggest any explanation for it if possible.

A. All the facts must be scrutinised, say, for instance, what was the condition of the girl's health and so on before we come to the conclusion. It cannot be due to early marriage and early maternity. There should be other causes.

Q. Is early maternity one of the causes for this?

A. The matter will have to be investigated. Hasty generalizations cannot do. I won't accept that it is due to early maternity. Old mothers die as often as young mothers die. The particular conditions where they live will also have to be investigated.

Q. We have also been given concrete instances in different parts of the country showing that girls giving birth at the ages of 13, 14 or 15 have suffered much on account of injuries.

A. Would injuries not happen at 25?

Q. But you have given two concrete instances in your own family in which you say no injury and no trouble has occurred.

A. It may be so. It is not due to maternity. Generally you have to consider several other things. It may be due to bad condition under which the man and woman live and bring forth children. It is not due to the natural causes of maternity but it is due to unnatural causes of environments.

Q. Further we have been given to understand that the babies of girl-mothers of the ages of 13, 14 or 15 are below the normal weight. Do you agree to this?

A. I controvert this fact because I have seen children born of early mothers are far better. As a matter of fact, every European coming to India has always got a kind of prejudice against early marriage and early maternity and I know a good many Indians rightly or wrongly or consciously or unconsciously follow the European ideas.

Q. Another thing that has been brought to our notice is that the ossification of the pelvis bone is not complete till the girl is sufficiently advanced in age, and till then she is not properly fit to bear the strain of maternity.

A. I will leave it to medical experience.

Q. You have suggested that 14 should be fixed for consummation. Do you think that having regard to the present-day conditions 14 will protect the girls sufficiently against the evils resulting from early maternity?

A. There are no such evils attending upon maternity.

Q. Do you think that the new generation is as strong as the old generation? Is there no physical deterioration amongst the people in the country?

A. Amongst those who have taken to western habits and modern civilization there is certainly deterioration but amongst those who live in villages and free from all that, there is nothing wrong with them. But in the towns there is very great deterioration on account of the unhealthy surroundings, etc.

Q. If you fix the age of consummation at 14, can you suggest any measures for bringing cases of the infringement of the law to light?

A. There won't be any infringement in my opinion.

Q. Though there may not be any infringement of the law in your parts, there may be the infringement in other parts?

A. When you are legislating, you should have considered these things.

Q. Would you recommend registration of all marriages for the purpose of maintaining a record of these marriages so that we might know at what ages the marriages took place and so on.

A. I attach no importance to such records. The human will is too strong in these matters.

Q. In marital cases would you recommend that the offence should be made cognizable?

A. I leave it to the lawyers. I am perfectly indifferent. To me it is a moral crime and deserves punishment.

Q. Would you make the offence compoundable in marital cases?

A. In marital cases I mean that in the best interest of the girl and boy the punishment should be as simple and possible.

Q. Would you like compounding a marital offence with the sanction of the court?

A. I am perfectly indifferent to all that.

Q. Would you prefer that these marital cases should be transferred for trial to matrimonial courts?

A. I am perfectly indifferent with regard to the procedure and other aspects of the case.

Mr. Katri: By puberty do you mean the first appearance of menses?

A. The phrase used is that the completion of the puberty on the onset of menstruation is the unerring biological event in the life of every female that qualifies her for wifehood and motherhood.

Q. How long after the first appearance would you call a girl pubert?

A. Firstly the girl shows a sign of puberty. Then for some months there is no recurring puberty at all. The first appearance will not be considered as the completion of puberty. It may be 4, 5 or 6 months when the girl gets into what we call the regular periods of puberty, i.e., regular courses and then she becomes qualified for wifehood. But the first appearance of menstruation will not be taken as the completion of puberty.

Q. If we have a law when should steps be taken to make it effective?

A. If the law is not disobeyed it serves a great purpose. It is not necessary that every law should be effective in the sense of its being disobeyed and enforced.

Q. But if cases occur, some steps must be taken to bring them to light. What steps would you propose?

A. Social opinion is the only safe guide in such matters.

Q. You said that even under the present law, there have been certain cases brought before the Court in which the husbands had been guilty of the breach of the law with girls below 12 and sometimes even below 10 as a result of which the girls have considerably suffered. Don't you think that for such girls protection is necessary?

A. Yes, we all will protect them.

Q. So you will keep 14 with the present procedure. Is it not so?

A. I have read some cases recently in the newspapers that the girl is below 12 and the husband is about 40 or 45. I, of course, object to unequal marriages like this. I will penalise unequal marriages. No girl below 14 years can marry a man of 40. This law is in Mysore.

(Witness promises to send the authority.)

Mr. Shah Nawaz: I understand you to say that marriages of girls before puberty are based on scientific reasons. Will you kindly tell me what the reasons are?

A. The reason is that within a short time after puberty the girl becomes qualified to be a wife and a mother. There must be therefore a period of intervening stage when she can live as wife and husband. If a girl is kept aloof for four years after puberty that is I say placing unnatural and artificial restraint upon nature's course

Q. Is this the only reason you can give?

A. This is my chief reason.

Q. Would it not be proper if the girl were to select her own husband?

A. No girl can take a right dispassionate and independent voice before 14. No girl of 12 or 13 chooses her husband. It is the parents who choose the husband.

Q. Should a woman have no voice in the selection of her husband?

A. She can have a voice in the selection but that wouldn't be the final determination of the voice.

Q. Therefore I say they cannot be consulted.

A. But they cannot decide and I believe in the majority of the cases either the parent or the guardian decides.

Q. May I understand that parents are the best persons to select husbands for girls?

A. Yes.

Q. I understood you saying that it will be a crime to marry a girl before she attains the 8th year. Do you think she will be capable of giving her consent?

A. I will prohibit marriage before 10 but after 10 she will be able to give an answer.

Q. Are you not saying this because there is a religious injunction? Do you base this opinion on scientific basis or on religion?

A. There is no scientific data for this. It is partly due to as I said that in the Shashtra it may be 8 but then I have extended two years to make it perfectly sure that it comes within the operations of reason and so I have put it at 10.

Q. Would elderly ladies favour marriages at 10?

A. Where a match is considered desirable every mother wants to have her girl married to a suitable boy whatever may be the age of the girl. She doesn't want to miss the chance.

Q. Is there a craving amongst girls to be married at 10?

A. There is no craving in any girl at 10 or 12. The sexual craving comes only after puberty. There is no sexual craving in any girl of 10 or 12.

Q. And yet they want marriages to be done at 10? I want to know the opinion of women in regard to this question.

A. All that the women say is that they are very anxious that their children should be married.

Q. Do you recognise the fact that women are more vitally affected than men?

A. I accept your statement if you say they are more bodily affected but not mentally nor morally. Vitally the husbands are equally affected.

Q. I understood you saying that a girl at the age of 14 has intense desire for sexual craving. Supposing the husband is not able to satisfy her, would you advise dissolution of marriage?

A. No. I would not?

Q. Why not?

A. If such is the case, I would ask the girl to live the higher ideal if she can.

Q. Is that the scientific opinion?

A. Yes. There are higher moral sciences and there must be some people who should live to the higher ideals.

Q. Why don't you allow remarriage of widows?

A. I say there are many Brahmin widows who are remarried but it is not liked by many Brahmins.

Q. Why not?

A. That is a question of like and dislike.

Q. Do not Shastras apply to non-Brahmins regarding pre-puberty marriage?

A. There are also Shastras for non-Brahmins as well and they do observe.

Q. Do majority of the non-Brahmins observe the Shastras regarding pre-puberty marriage?

A. Many of them don't observe pre-puberty marriages because it is not binding on them.

Q. Are they not Hindus?

A. I beg your pardon Sir. Hindu Laws have been made and adapted so as to be useful to each community. What is useful to one community needn't be necessarily useful to another.

Mr. Bhargava: May I know of any injunction which limits the operation of this rule of pre-puberty marriage to the Brahmin class only?

A. I am not prepared to discuss about the injunctions here. Pre-puberty marriage is only applicable to Dwijas. If a rule is made for A, B, C, it doesn't apply to Y, Z. I will have to look up to the books and give you the reference. So far as my personal opinion is concerned I don't want any legislation in regard to this to be carried out because I don't see how any special community will help us in the matter.

Q. Do you know of any authority which only restricts these operations?

A. There is Brahmacharyya enjoined and the Smaskara enjoined to the Dwijas only. As a matter of fact in South India certain non-Brahmins have lived the higher life of spirituality than the Brahmins but the injunctions are not binding on them.

Q. May I know the reason for your saying that there should be a legislation prohibiting marriages below 10?

A. Firstly to avoid widowhood at a very early age and secondly to minimise the evils of child marriages as a whole below 10, and I consider it irreligious and sinful to marry children at 5, 6, 7 and 8.

Q. You say you want to minimise the evils of child-marriages. I want to know what are those evils.

A. First and chiefly there is the economic evil. Amongst the Hindu families the marriage of a girl has become a kind of tax.

Q. Then I understand that you are in favour of these marriages because if marriages are postponed after the 10th year, dowry is to be paid to a greater extent. Is that your idea?

A. I want to minimise the evils of child marriages.

Q. Then you want to withdraw your economic reason?

A. No, I don't want. There may be causes other than the economic condition. The price of the girl may go higher still.

Mr. Bhargava: Is there any other reason why you are in favour of fixing the age at 10?

A. I am not fixing it; I will prohibit it before 10.

Q. Your reason is that the number of widows will be lessened. Is there any economic reason?

A. It is immoral and irreligious to marry children of 2, 3, 4 or 5.

Q. So far as religious notion is concerned I understand that if there was any large number of people who were wedded to a particular religious notion whether it is right or wrong you are for respecting it. Is it so?

A. Yes, from an abstract consideration and political consideration. The abstract consideration is that religion must be respected and the political consideration is that it is not wise to put a large number of people against the State by a particular legislation.

Q. If there is a large number of people who are not in favour of marriages below or at 10, would you advise us to raise the age to 14?

A. No. There is a certain condition of things obtaining when you want to make a reform, i.e., people who want to make reform must have stronger cause than those who do not want it. If a certain thing exists for a long time, the need for a change must be definitely and incontrovertibly proved or, as I say, we must try to take as many people with us as possible.

• **Q.** Supposing there is a number of people preponderatingly strong in favour of having late marriages?

A. They have no right to impose their will on the minority.

Q. Then you will concede that you have no right to say that marriages below 10 should be prohibited?

A. I am only for prohibiting marriages below 10 because there is no opposition on the other side.

Q. You cannot say there is no opposition.

A. Until the opposition comes I cannot think of it. When the opposition comes I will say whether it is very large or not.

Q. If I tell you there is no opposition to 14 also, what would you say then?

A. If it is so then I will change my opinion.

Q. Did you support Sarda's Bill when it was first introduced into the Assembly?

A. I did support the principle of it.

Q. You know that the age then was 12?

A. I only supported the principle of the Bill: I don't think I made any reference to age in my speech. The principle then was of betrothal not taking place and to that extent I stick to my opinion even to this day.

Q. May I know if you are personally in favour of widow remarriage?

A. As an ideal it is a bad thing.

Q. How would you consider it in practice?

A. I am a bit of an idealist. I believe an ounce of idealism is better than a ton of practical gold.

Q. You say that at least one year should elapse after girls attain puberty and I understand by puberty you mean six months after puberty?

A. That is my understanding of the thing.

Q. You advise consummation age at 14?

A. It does not mean that every girl must have consummation at 14.

Q. Unless you fix the minimum age higher every girl will not be protected. Is it not?

A. Every girl will never be protected.

Q. Do you mean to say that a large number of girls should not be protected?

A. There will be no large number of girls who will be protected.

Q. Will you refer to your reply to Question 5 where you say that among the working classes the period of puberty is 13—14. How will you protect those girls?

A. I do not think they are married before 15 or 16.

Q. You want to have law for the whole of India and for all communities?

A. Yes.

Q. If a girl attains puberty at 14 you think she becomes immediately fit for consummation?

A. I have suggested 14 to be on the safe side. I know a girl who is a relation of mine. She attained puberty at 16 and she has had no consummation yet.

Q. When you legislate you ought to see that it protects the greatest number?

A. The law that I have suggested will protect the greatest number.

Q. The evidence before the committee is that in many cases in some communities puberty is not reached before 14 and sometimes it is later than 14?

A. The Committee should then call for statistics in various parts of the country as to when generally girls attain puberty and if these statistics are put before me I will be able to help you.

Q. You are in favour of penalising unequal marriages between a man of 40 and a girl of 14?

A. That is my personal opinion.

Q. What do you think of the protection of those girls who are 15 if you place the marriage age at 14?

A. It will not necessarily be 15 but it will be any age after 14.

Q. You are in favour of girls remaining unmarried up to 14?

A. I am against a certain thing namely the unequal marriages of young girls with old people.

Q. About these statistics—will you kindly say whether more than 50 per cent. of the girls between the ages of 10 and 15 are married?

A. Yes, I believe so; the percentage is there.

Q. But you have taken statistics from girls of ages between 0 and 40?

A. If the statistics are wrong you can discard them. I think I took pains to draw right conclusions.

Mr. Mitra: You have said that girls in villages where they lead industrious life get puberty later?

A. Yes, I said working classes.

Q. We have it on evidence—both medical and scientific—that unhealthy girls also attain puberty at an early age. Do you agree with that view?

A. If the medical opinion says so they must have some reason for it.

Q. Girls in towns lead more or less indolent life and they also attain puberty earlier?

A. There are so many variations in families and communities. In certain families I am told they attain puberty very early and in others later.

Q. Do you agree that unhealthy girls attain puberty earlier?

A. Probably.

Q. Then our difficulty is from the biological standpoint. If you say that as soon as they attain puberty they are fit for consummation, will it not logically follow that normally unhealthy girl will be consummated earlier?

A. That can be left to the discretion of the parents.

Q. On scientific grounds sickly girls should not be married at all.

A. If they are too sickly they should not be married and they would not be married.

Q. You said that disinterested unselfish people—Rishis—are the only entitled people.

A. That is said in the old books and I agree with it.

Q. You said Mahatma Gandhi is very disinterested and unselfish.

A. Mahatma Gandhi has made very very great sacrifices but he is not a Rishi. He has committed many blunders but a Rishi never commits a Himalayan blunder. Mahatma is selfless pure but he has not got the higher vision yet, he has not attached *yogadrishti* and that is our misfortune.

Mrs. Nehru: You have put your reasons for restricting marriage to the age of 10 on moral grounds?

A. For minimising evils.

Q. Do you base your opinion on any facts or is it only an apprehension in your mind that girls will go wrong?

A. I base it on general facts.

Q. After 14 you think there is a danger to the morality of the girl?

A. Here we are for making a penal legislation for fixing certain limits before which it becomes penal. Similarly when I say that 14 is the Age of Consent it is not that I advise every girl becoming wife and mother at 14, that is a minimum limit.

Q. You think going beyond that limit would be dangerous to the morality of the girls?

A. It will be necessary from the biological standpoint. It is unnecessary and undesirable to go beyond that limit.

Q. Then you do not think there will be any real danger to morality?

A. In one sense, *viz.*, that a girl whose natural cravings are not satisfied becomes immoral mentally.

Q. Have you found that mental immorality being expressed in any form in any girl?

A. I had once occasion in my life to come in contact with grown-up unmarried girls for a period of 2 years. I was a young man then. That is about 30 years ago. Girls in the lower classes were hired to do work for grown-up girls from 15 to 20. My impression is that the girls shewed their desire in a hundred ways.

Q. You say it was 30 years ago?

A. Yes.

Q. And the girls going to school were unmarried girls of 15-20 years old?

A. It was a boarding school where the girls were Christians. My impression from what I saw there was that it was wrong to have put such artificial restraint on the girls.

Q. Was anybody forcing them not to marry?

A. They were not even sent out of the compound.

Q. Have you had any other experience besides that?

A. No.

Q. In India there are many communities where post-puberty marriages are practised in a very large number of cases and there is a growing number of girls going to schools and colleges who remain unmarried for a very long time

after puberty. Have you heard any complaints about those girls? Do you believe that there is this mental immorality among them?

A. There is always mental craving in them though it may not materialise. They do not express it in words though they express it in conduct.

Q. Can you give any concrete instances which we may also be able to understand?

A. Although in India early marriage is practised but still I dare say perhaps half the girls are married after puberty and long after puberty.

Q. In that case we ought to have experience of girls remaining unmarried after puberty and if such things happened we also must have heard about them?

A. By early marriage I do not say pre-puberty marriages. I consider marriages up to the age of 20 as early.

Q. Then you think a girl up to 20 can remain unmarried without any apprehension to her morals?

A. That will depend on her environments, parentage and her own predilections?

Q. You know what conditions are at present in India and knowing them what do you think about it?

A. I would marry them at 14 or 15.

Q. Have they no right to get education?

A. They have every right for what they deserve.

Q. What do they deserve?

A. It is left for each individual to find out.

Q. If a community finds out that it is good for their girls to get higher education, would you give that community the right of post-puberty marriages?

A. I will consider when there is such a system in India. At present education is very mechanical and artificial.

Q. Would you stop them from taking advantage of that mechanical education?

A. I would rather think it much better that it is stopped. There is no moral education and there is no religious education.

Q. Have you been telling people to stop taking advantage of it?

A. I have been warning people against the evil effects of the present secular, soulless and killing education all these 30 years.

Q. Do you think it is our duty to try and reduce the number of widows in our country?

A. Yes.

Q. What means would you adopt?

A. Various means in various places. I suggest no marriage should take place before 10 and there will be no widows before 10.

Q. But I thought you considered them children up to 20?

A. There are some children even up to 60 years. For the time being taking the present conditions and traditions of the people I will take one step further. I will go as far as I can without arousing unnecessary opposition.

Q. If there is no fear of opposition then would you rather have it raised?

A. It is a matter of experiment and I will perhaps raise it from 10 to 12.

Q. If you are convinced that the majority are for raising the age then will you agree?

A. Let them have it but let there be no legislation.

Q. But you never took your stand on the ground of legislation being undesirable; you were all along for legislation up to a certain age?

A. It will not be very seriously objected to by a large number of people but when you pass that limit there will be serious objection by a large number.

Q. Was the abolition of *Sati* not objected to?

A. There was never any *Sati* in the true sense in this land. It was degenerated *Sati*.

Q. But my question is, did a large number of people oppose it or not?

A. I have not studied the question carefully but probably many did oppose it.

Q. If in spite of opposition it was abolished cannot we stop early marriage in the same way?

A. The abolition of *Sati* was the greatest mischief that has been done to India.

Q. People do not say it was wrong?

A. If people do not say, I say, it was wrong. Abolition of *Sati* ideal was wrong but they did not abolish *Sati* ideal. It was wrong so far as the degenerated custom was concerned.

Q. Was there a larger amount of evil or of good in the abolition of *Sati*?

A. I do not think we should bother anything about it.

Dr. Bradon: You refer to the monumental book "Psychology of Sexes by Havelock Ellis". Would you mind telling us when that book was written?

A. I believe it was written 20 or 30 years back.

Q. In view of the fact that a very great amount of work has been done in psychology in recent years, do you not think there may be some more modern works?

A. There may be but I do not know.

Q. In those 2 cases that you refer to was it also 25 years ago?

A. That case was in 1906.

Q. 260 labour cases is not a very large number and 38 labour cases is not a large number and therefore we cannot base any conclusions on a book which deals with less than 300 cases. For an authoritative pronouncement would you depend on so small a number?

A. So far as observations go these cases are of real value but if there are some works of better investigation the original investigation will be substituted by the later investigation.

Q. But is it scientific to refer to any work which deals with so small a number?

A. It is only by accumulation of facts that you can arrive at a right conclusion.

Q. I think a great many people would not accept that as an authority.

A. That will be doing wrong.

Q. Have you taken the trouble to find out any later work?

A. Yes, I have taken some trouble and the later conclusion did not contradict these conclusions. I am not a medical man and these things which I have quoted are from well-known works. I do not know later authorities.

**Written Statement, dated the 9th August 1928, of Mr. C. Y. VENKAT-
RAMANA IYENGAR, B.A., B.L., Member, Legislative Council,
Dharma Vilas, Coimbatore.**

1. I do not think that there is any real dissatisfaction on the part of the public but there are some advanced social reformers who want a change in the Law.

2. There are really no reasonable circumstances which in my opinion would justify one thing or other. It may be said that the recent change in the Law took place only a few years ago and as legislative action effecting social reforms should be slow it would justify the retention of the law as it is for some years more.

On the other hand it may be said that on the whole the proposed change is a reasonable one and as the recent change has not caused any great inconvenience or dissatisfaction, there is no reason at all for delaying the extension of the principle involved in the last change.

3. There are very few cases of real seduction or rape in this part of the country and therefore the amendment of the law made in 1925 has had no effect in reducing cases of rape outside the marital state or the improper seduction of girls for immoral purposes. So far as my information goes, practically all such offences of rape and seduction as have been committed have been generally in relation to grown up girls above 15 or 16 and therefore I do not think that any further change in the law is necessary for the purpose of checking such cases so far as Tamil Districts are concerned.

4. I do not think that the amendment of 1925 has had much effect for the simple reason that there have been practically no cases coming within the ages of 12 and 13 as will be seen to my answers to questions below.

5. Girls attain puberty between 14 and 16 but in some cases girls attain puberty between 13 and 14 and there are some stray cases of attaining puberty below 13. The age is lower in higher castes than in lower castes and the average age may be taken as 13½ in the case of Brahmins and 15 in the case of working classes.

6. I do not think that cohabitation is common in Southern India among any class of people before puberty or even after puberty but before consummation of marriage. I know of very few cases of cohabitation before the girl completes her 13th year whether before or after puberty. In some rare cases however where a man has got some issue by a deceased wife and marriages a young girl, the latter sometimes lives in the husband's house before puberty but generally with some other female relative; but such cases are so few that they may be practically ignored for the purpose of justifying a change in the Law.

I have not heard that any case under this heading has come to Court.

7. I attribute the practice to social feelings and customs only. In a very few cases where the husband is old and wants his wife to help him in domestic work, the consummation takes place within 16 days after puberty as it is stated that it may take place within that time, on any day without any necessity to look for an auspicious day.

8. Garbhadhan ceremony is generally performed in Southern India in all cases among Brahmins and in many cases among High Caste Hindus of position.

It always coincides with and is an integral part of the ceremony leading to the consummation of marriage. It is performed only after the attainment of puberty and varies from a few months to about 2 years after that event.

In cases of communities other than Brahmins where the marriage takes place sometime after puberty the consummation takes place soon after the marriage.

9. I do not consider that the attainment of puberty is a sufficient indication of physical maturity to justify consummation of marriage and I am strongly of opinion that a period of about one year should elapse after puberty and before consummation of marriage.

10. This must vary with environments and circumstances and I would fix it between 13 and 15.

11. It is very difficult to give any case in which cohabitation alone might have led to such consequences but there can be no doubt that in most cases it leads to difficulties. There have been several cases to my knowledge in

which I may say that young girls have become weak or have gone to an early grave on account of early motherhood or miscarriage. But it may be said on the other hand that such consequences take place even in the case of older girls and that there are several cases in which young girls bring forth children and yet both they and the children are all healthy.

12. While I do not go so far as to say that early consummation and early maternity are responsible for high maternal and infantile mortality or other evil effects, I am of opinion that they also contribute to some extent towards those evils.

13. I do not think that there has been any change in public opinion in my part of the country.

14. The reply is an emphatic No. So far as mothers of girls are concerned, they are generally for prolonging the period before consummation of marriage as that event would deprive them of their company.

15. No difficulty has been found generally except in certain cases of enticing or rape where very often the defence is that the girl was a willing party and that therefore there has no offence been committed. I cannot suggest any remedy except insisting on birth registers where they are available.

16. I do not think that the difficulty would disappear if the age limit is increased for doubts may also arise there. On the other hand there will be more cases prosecuted if the age limit is raised and more difficulty will be felt.

17. The difference may continue and the punishments may be the same as under the present Law.

18. Yes, I would make a difference and would suggest that no prosecution of the husband should take place without the sanction of the District Magistrate or Chief Presidency Magistrate.

19. I have no suggestion to make except what is contained in my answer to question No. 18.

20. I would be satisfied with the present Law. There has been no public opinion expressed to increase the age.

21. I am one of those who would think that in such matters when the social rights of parties to a marriage are concerned there should be as little change in Law as possible and even those changes which are deemed necessary should come at longer intervals after public opinion is made favourable to the change by means of education and social propaganda and though I am strongly against early consummation of marriage, I am not for the present change within a period of 3 years after the last change. It will lead to vexatious prosecutions and party feelings resulting in unnecessary public excitement and annoyance.

Oral Evidence of Mr. C. V. VENKATRAMANA IYENGAR, M.L.C.

(Madras, 21st November 1928.)

Chairman : Have you long been at the bar at Coimbatore?

A. I was practising for 25 years.

Q. We were told the other day that there is a practice in the Coimbatore District that girls of 18 or 20 are married to husbands of 8 or 9 and sometimes they bring them to court?

A. That was a recognised practice before but that practice has practically died now.

Q. Among what class did this practice exist?

A. It was mostly among the Billavars.

Q. How many years ago was it so?

A. You may take it 30 years back.

Q. To-day will you say that the practice is gone?

A. Practically.

Q. Now are females of less age than the males?

A. They are of equal ages or a little older. There is no great disparity now.

Q. In the Coimbatore District is the large percentage of population given to pre-puberty marriages or post-puberty marriages?

A. A very large portion is given to post-puberty marriages.

Q. Which are the classes that go in for pre-puberty marriages?

A. I may say generally all the Brahmans and practically all the Vaishyas do it.

Q. What proportion do these two communities constitute of the entire population in this Presidency?

A. I believe it will be only 4 or 5 per cent. The rest are post-puberty marriages.

Q. What is the age of marriage amongst Brahmans and the Vaishyas?

A. Now generally it is before 12 but it is progressing. Ten years ago it was 8-10 but now it is 10-12. Consummation generally takes place at about 14.

Q. Do you know a great many cases of girl mothers before 15 complete?

A. I would take it as 1 per cent. only.

Q. Do you think a good many get children before they are 16?

A. 10 per cent. get children at about 16.

Q. Have you observed any deterioration in young mothers of tender ages below 15 or 16?

A. My experience in such cases has been very small.

Q. But in your practice of 21 years you will have known such cases?

A. I have passed my life in Coimbatore. So far as these girl mothers are concerned their number is not very large. The Brahman and the Vaishya community is very small and a large portion of them get children after 16.

Q. Is it your experience that it does affect the physical condition of the girl or her progeny?

A. That may be the case when even a girl of 18 gets the first child.

Q. You are not in favour of an advance on the present law?

A. No.

Q. If in practice the age of consummation is 14 what objection have you to raise the age of consent?

A. You must certainly pass permissive laws first but unless there is a very large opinion in favour of a particular measure I would not compel it by law.

Q. Supposing in a community those practising early consummation is small and the majority of those practising it are not prepared but the rest of the whole community is prepared, still you do not think there should be legislation?

A. So far as social law is concerned I am of that opinion.

Q. But this is religious legislation.

A. I would call it social legislation.

Q. Do not you think any religion is involved?

A. So far as this question is concerned it is very difficult to draw the line.

Q. You say that 3 years since 1925 is a small period to know the effect of the change.

A. Because I am of opinion that not much propaganda work has been done. Very few people know that there has been a change in the law.

Q. Would that not be an argument for making the law known and increasing the age?

A. I would put it otherwise; make the law known first and then increase the age.

Q. Then raise the age and make it known?

A. They are still under the impression that the age of 12 still continues. I would say make it known first.

Q. You say that there has been no public opinion expressed to increase the age of consent.

A. No.

Q. Has any public opinion been expressed in regard to marriage law?

A. So far as Brahman community of Southern India is concerned, the impression seems to be against marriage legislation.

Q. But there were ladies' meetings where resolutions were passed in favour of it?

A. It is the opinion of vocal women.

Q. Are there any cases of concealment of puberty among the Brahmans and Vaishyas in your part of the country?

A. There might be a very negligible number now but 20 years ago there were many such cases.

Q. Now are there a good many that you hear of?

A. I have heard a few; I can remember 5 during the last 5 years.

Q. In giving your opinion have you taken medical aspect of the question, viz., when it is safe for a girl to become a mother?

A. I am not an expert and I do not believe in experts. I think a good deal will depend on the nourishment.

Q. You are not prepared even to admit that early maternity may be one of the causes of deterioration of the mother and the child?

A. I think that may be one of the several causes.

Q. Do you consider 13 to be a safe age for motherhood for girls?

A. If the consent is given at 13, motherhood must be at 14.

Q. Would you say that amongst Brahmans and Vaishyas consummation of marriage below 13 is a very rare occurrence?

A. Yes.

Q. What time generally elapses between first puberty and garbhadan ceremony?

A. It is generally between six months and one year but you may take it six months. In this part of the country some celebrate the second puberty as the first and that is sometimes later.

Q. As between custom giving rise to opposition and resentment if we enact a law, and the evil from the medical point of view—to which would you attach more importance?

A. I would attach importance to both but as a legislature we cannot legislate anything against the generality or the majority of opinion. Doctors change their opinions every day and even doctors are available to support our case.

Q. But you have to judge by preponderance of view?

A. We must take that also but first of all we should have permissive laws and then penal laws. Widow remarriage for instance is very good.

Mr. Kanhaiya Lal: If there is a law fixing the age for marriage, what age would you recommend?

A. For marriage I would fix 12.

Q. And if there is a law fixing the age of consummation what age would you recommend?

A. Fourteen.

Q. Do you think that a girl would be sufficiently protected if 14 is fixed?

A. Taking everything into consideration I think it is a fairly good age and it is a safe age for legislation.

Q. Are you aware that the Ayurvedic authorities state that below 16 a girl is not fit for maternity, if there is a child the child will die in the womb or will die soon after birth or if it lives it will not live a strong and vigorous life.

A. I do not make any difference between Ayurvedic and the English doctors.

Q. Do you think that even Ayurvedic authorities like Sushrut are not entitled to great weight?

A. I do not say they are not entitled to weight but they have not got a final word on the matter. If at all legislation is made, we will raise it to 14.

Q. If they say a girl is not fit for maternity till 16, would you not think that 16 is a reasonable age?

A. If they say that in every case no woman is fit for motherhood before 16 I say it is false. I can say that a well nourished girl gets a child at 14 or 15, she will be better than an ill fed girl of 16 or 17.

Q. Taking the generality of cases you think there is no necessity for postponement after 14?

A. I am for legislation for 14 at present.

Q. You say girls generally attain puberty between 14 and 16 and you recommend that a year should elapse before consummation should be allowed. Would it be right in these circumstances that the age for consummation should be fixed at 15 or 16?

A. In most cases girls attain puberty at 13 and therefore consummation must be at 14.

Q. But in the generality of cases as you say it is 14 to 16?

A. The legislature must provide for minorities also. There is a very strong public feeling against it.

Q. For the benefit of the general minority would it not be right to legislate on safe grounds, though the interests of some may suffer?

A. Then you must have other legislation to decide when girls attain puberty.

Q. Suppose a girl menstruates at 13 and we fix the age at 15 would there be any harm to the girl?

A. It is not a question of harm but it is a question of harming public opinion.

Q. Do you know that penal laws are drawn up for the benefit of the largest number?

A. That is where I draw a distinction. If there is a minority and a very strong minority, have permissive laws but when you penalise a particular action you must have the whole community with you.

Q. We have got in different parts of the country people who are of criminal ways; their habit is to commit a crime. If you take their opinion and be guided by the rule that you have laid down that anything that harms a particular community should not be dealt by legislation, in that case you will have no penal laws.

A. If they agree to steal among themselves I have no objection but if they take my property away, the law should interfere.

Q. You think if they agree amongst themselves to commit crimes you would allow them to do so?

A. I would not stop them.

Q. Don't you think it will set a bad example to other communities?

A. It is not a bad example, it may be a good example.

Q. Suppose we allow a certain class to commit a certain thing and we exempt them from legislation, would not other persons be persuaded to indulge in similar habits?

A. If they are able to induce their own community to do so they are all right. If 99 per cent. of the community agree to it, I would not object.

Q. Do you know that in certain communities in India like the Thakurs, the practice of infanticide existed and yet we had to pass a law to protect the girls?

A. What percentage of the population supported the law publicly? It is a defamation. I do not think any community agreed to infanticide. If practically the whole community agree to do it, you must have no legislation.

Q. If infanticide was practised amongst the Takurs, would you have made a law against infanticide?

A. May I know if 10 per cent. of the Takurs themselves would have supported the practising of infanticide? It might perhaps have been practised amongst a small number stealthily and in some places. I do not think any community would agree to infanticide.

Q. It was practised.

A. Supposing practically the whole community had practised it I would say that there should be no legislation against infanticide, because from the point of view of the community it is not wrong.

Q. Would you apply the same rule to Sati?

A. We differ in the case of Sati in this respect, that we never recognised it as a proper thing. The best thing in the circumstances would have been to have taken a plebiscite on the thing and find out the result. I am sure even one-fourth per cent. of the people would not have supported it.

Q. Do you know that numerous memoranda were sent to the Secretary of State against Lord Bentinck's measure?

A. Did anybody take the trouble to find how many of them were real signatures? Was any Committee like this sent out to enquire about it?

Q. The Muhammadan Law permits the keeping of slaves and some communities practised slave trade. Do you maintain that according to you the law should not interfere in such cases because the Muhammadan law permits it?

A. If supposing in Arabia the Muhammadan Law supports slave trade and that 99 per cent. of the Musalmans want it, you will be doing an injustice to the people by passing a law abolishing slave trade.

Q. We are talking of India and we have not got it in India.

A. Because the majority were against it.

Q. In other words your rule is that if a large majority of the community want that a practice should continue it is not the business of others to interfere with that, though that practice might be harmful to those people.

A. But you will have first to prove that it is harmful to others.

Q. It has been pointed out to us that between the ages of 15 and 20 the number of girls who die is more than the number of boys. Sometimes the number is 50 per cent. more than of the number of boys. Do you not think that it requires some remedy?

A. You have to ascertain first from where were those statistics taken?

Q. They are taken from the Health Departments.

A. But what I say is this; in India the period of child-birth is always risky. Supposing the child-birth is at 20, then the number of girls who die at 20 will be greater. That is my opinion.

Q. The facts established are that as the age becomes advanced, the mortality becomes less.

A. That is because by then the girls become accustomed to maternity.

Q. Do you not think it is because the danger is less?

A. It is well known that the danger is greater in the beginning than during the second or subsequent child birth.

Q. Is it a fact that amongst Hindus the number of girls who die within the ages of 10 and 20 is a very large number?

A. Amongst the other communities the number of married girls between those ages would not be a large percentage.

Q. Is it because a number of girls amongst the Hindus are married before 15?

A. If you want to say that this is the direct result of early maternity, you will have to find out the total number of maternity cases and the deaths. These mortality figures are generally taken from hospitals and you cannot draw your conclusions from them. Also the people who have recourse to these hospitals are rich people who cannot be the standard for one to draw conclusions from.

Q. It has been pointed out that the babies of girl mothers of 13 or 14 are very much less in size and weight than the average babies born of older mothers. Do you not think that requires consideration and also a remedy?

A. You should go to the root and find out how many were born to poor parents and other particulars like that. But even supposing that it is so, we cannot say that it is a necessary criterion of the strength of the child or its longevity. The very fact that the child is less than a certain weight does not mean that it will die soon.

Q. I will give you a concrete instance. Dr. Campbell whom we examined said that the children of young mothers are generally between 4 and 5 pounds whereas the normal weight should be 6 to 7 pounds.

A. There are two things there. Firstly women in towns are generally weak, especially in South India it is the case. They have given up the usual family avocations. And they do not take to exercise of any kind. I can say that the girls in the towns are more unhealthy apart from their age.

Q. Would you also say that they are weak because they are born to weak mothers?

A. I won't say that at all. Girls have plenty of opportunity to pick up strength.

Mr. Kadri : Are you for raising the age of consent to 14?

A. If that is necessary. But personally I do not think it is necessary. I have no objection to your making this present law known much better and after some time raising it to 14.

Q. Simultaneously with that would you like to make the law known?

A. Yes.

Q. What age would you have in extra-marital cases?

A. I will have it at 16. There is no obligation there, nor is there sympathy with the offender. For the matter of that I would even have it at 18.

Mr. Shah Nawaz : In paragraph 7 you say that you attribute the practice of pre-puberty marriage to social feelings and customs. Do you mean to say that pre-puberty marriages are all governed by social feelings and customs?

A. As I have stated at the outset, it is very difficult for me to say which is religious and which is not. In my opinion any custom which is prevalent for centuries has almost got the sacredness of religion.

Q. What are these pre-puberty marriages due to?

A. It is due to age long custom which some people attribute to religious beliefs also.

Q. Can you give me reasons for this custom?

A. It is very difficult. It must have been some hundreds of years old.

Q. Suppose we find that these customs are followed by evil results would you like to eradicate the evils?

A. My own view is that first of all you should produce very powerful reasons before you do so. Even if there are any evils, so far as marriage is concerned, I am for eradicating them by social propaganda only. I am not satisfied that betrothal before puberty is an evil custom.

Q. Why is it a right custom?

A. All that I say is that it is not a wrong custom.

Q. Can you give us any reason why it is so?

A. It is this way. The parents do it with the intention of fixing up the boy whom the girl should marry. Otherwise supposing the girl is allowed to grow till she is 15 or 16 it is possible that in some cases they might not be able to fix up the proper man, especially when the girls are at an age when they will be full of passion. We have only got to see the American divorce cases, where sudden passion makes sudden marriages which are immediately followed by sudden divorce. Here I believe in elders respecting the family customs and such other things, and I still believe that the choice of the parents on behalf of the girl would be a better choice than that of a young and impassioned girl who wants freedom.

Q. You say that a loving feeling can be developed between the girl and the boy as the result of early marriage before puberty. Do you think that a girl at 12 is competent to think of love and such other things?

A. I am one of those who believe there are other things in this world than sexual love alone and that marriage is made for other things than sexual love alone. I know of cases where people have married and lived happily without sexual intercourse.

• Q. Do you think that a girl of 12 can understand all that you have said?

A. She is trained in that line.

Q. Is she ever consulted at the time of marriage?

A. Some times she is.

Q. Do not the parents generally make the choice for her?

A. Yes.

Q. In South India what position do you give your women in the selection of their husbands?

A. Women in our houses are practically our rulers or masters.

Q. Do you think that a girl at 12 desires to be married?

A. I do not say that she does desire to be married.

Q. Does she at least agree to it?

A. The girls in Brahmin families *do* like to be married at 12.

Q. What about other communities?

A. In other communities marriages do not take place before 15 or 16.

Q. Why do you differentiate between Brahmins and Non-Brahmins in these respects?

A. Our actions are dictated by customs, and custom has become a part and parcel of the whole society.

Q. Do the girls want to become mothers at 15?

A. Yes, in some cases they do. They sometimes do Puja so that they might become mothers.

Q. Do you agree that if there is a public opinion amongst the community that the law or custom should be changed, the State should do it?

A. Yes.

Q. If the Hindus forming one community . . .

A. For the purposes of marriage I do not take the Hindus to be one community. Early marriage is prevalent only amongst the Brahmins and Arya Vaisya or Komattis.

Q. For the purposes of pre-puberty marriage and consummation these two communities go together.

A. As a rule yes. There are a few cases in other communities.

Q. Is it not a fact that amongst Brahmins first cousins marry each other?

A. It is very common.

Q. Would you then have legislation prohibiting that?

A. But the practice is more common amongst non-Brahmins. And 90 per cent. of the Non-Brahmins would refuse to leave it. I might tell you that in my district kidnapping cases amongst non-Brahmins are due to such marriages not coming off.

Q. Supposing a number of girls and women come forward and say that the law of inheritance should be changed would you do it?

A. Personally I am one of those who would strongly be for such a law. The feeling is nowadays coming in the families that girls because they are girls should not be deprived of a share in the property just as well as the boys. I have myself given away quite a good portion of my property to my girls.

Q. Why are you hard on the girls? Do you not think they should select their own husbands?

A. By all means permit them. I therefore say permit post-puberty marriages first, by saying that such marriages will be valid just as any other marriage. But do not make it penal to have pre-puberty marriages. 99 per cent. of the Brahmins believe, and I think rightly believe, that pre-puberty marriage is essential, and I do not think you will be justified in going against them and enacting a law. Personally I gave my three daughters in marriage when they were more than 12 or 13.

Q. Then as a democrat you want to give freedom for women, but not in practice.

A. I would give freedom to everybody. But my anxiety is in giving that freedom I do not want mass massacre. That is my whole view.

Q. Supposing the age of marriage is fixed at 14, what will the Brahmin community do?

A. There are 99 per cent. of the people who believe that by religion as well as social custom they must have their girls married before puberty. If you fix the age of marriage even respectable people will say that the girl has attained that age even though she has not actually done so.

Q. Do you not think it is a prejudice?

A. We are all prejudiced. We social reformers are very much prejudiced. But I have no objection to anybody being prejudiced and acting in his own family. But why do you come and insist upon a thing which nobody needs to-day? Can I not as well say that it is the other way about? Why do you come and tell us that the age should be fixed at a particular figure at all? As a legislator I am one of those who think that in these matters there is no use legislating against societies or communities when a large portion of those communities are, in your opinion, not so far advanced as the others.

Q. Supposing the practice is followed by results harmful to the Society, is it not then the business of the State to legislate?

A. There are many things which the State does one day and gives up the next day. This shows that the State can never know what is right and what is wrong, and it is as much governed by individual prejudices as any individual might be. For instance the policy of Free Trade was adopted in England some time back, but it has been given up now.

Q. If the vast majority of the Hindu community do desire that the age of marriage should be fixed at a late age, and the Brahmin community who form a minority do oppose it, do you think we should not pass the law?

A. I am always against this tyranny of the majority if it is not in the same community.

Q. Supposing we take it for granted that a large majority of the Hindus desire legislation and they think that it is good to the society as a whole, would you still object to legislation?

A. Take for instance a concrete example. We Hindus in Southern India are very anxious to prohibit cow-slaughter, but there is a very small portion, namely the Muhammadans, who want it. Or take this example. We Muhammadans and Hindus do not want pork, and the Hindus do not want beef. Therefore can we Muhammadans and Hindus jointly say that pork and beef should be prohibited in India?

Q. I am asking you about the Hindus and not about the Muhammadans. Supposing the majority of Hindus, say 60 or 70 per cent. do desire legislation, and the Brahmins oppose it, do you think that it will be right for the Brahmins to oppose it, and secondly should not the State interfere in such cases?

A. My point is that it is as bad as taking the whole of India together and calling the Muhammadans a minority community and objecting to their killing cows. Even as amongst the Hindu community the community in the Northern India is different from the community in Southern India. We should for these purposes not talk of the Indian community or the Hindu community but only about particular communities in a particular place.

Q. Would you stick to your proposition even if it is found that it is a bad custom?

A. Yes; if it is thought to be a bad custom by communities other than the Brahmins. But if the majority of the Brahmins think it is a bad custom then it is a different matter.

Q. Do you count Brahmin women amongst the Brahmins?

A. Yes.

Q. Supposing the majority of Brahmin women think that it is bad custom...

A. They will at once change the custom, and they can do it.

Mr. Bhargava: May I take it that you are of this opinion that if a majority in the community think they should do a particular thing, they can thrust it upon a particular individual even though he does not like it?

A. I do not say that at all.

Q. If a majority of the Brahmins are against increasing the age of marriage, and one Brahmin says that he has objection to it what would you do in his case?

A. I will have legislation permitting him to do so.

Q. So that you think that so far as these questions are concerned every person is a law unto himself.

A. Yes, with this proviso that it does not affect the other members of the community.

Q. You will not be in favour of the raising of the age of consent.

A. Not until the bad effects are such as to affect the whole community.

Q. Supposing it affects any person agreeing to it.

A. We should not disturb the community for the sake of one individual.

Q. I take it you are conversant with section 87 of the Indian Penal Code in which it is laid down that if a person agrees to receive injury, while that person's age is less than 18 years, even then the man who so injures is liable to conviction.

A. Yes.

Q. Supposing it is found that any person having intercourse with a girl less than 16 years old inflicts injury upon her.

A. I do not admit that presumption.

Q. Supposing I am of that opinion, how would you advise me to legislate for that person?

A. If there is any evil below 16 and it is found that sexual intercourse is the direct cause of the injury then I agree that there must be legislation.

Q. Do you or do you not consider that if a person inflicts injury on another it is the business of the State to interfere?

A. Yes; as a general rule, with exceptions as for instance a teacher punishing the pupils and the judge hanging criminals.

Q. If a school-master canes a pupil, will he or will he not be guilty of the offences under section 323, Indian Penal Code?

A. If the punishment is proper and there is no intention of injuring I do not think it will be an offence.

Q. Supposing there is a custom which permits the beating of wives by their husbands, is it an offence or not?

A. Such a custom is an absurd custom.

Q. In some parts of the country I know that many husbands have slapped their wives.

A. And I know that many people have been sent to jails for having done so.

Q. May I take it that though the majority of the community believes that the husband can have sexual intercourse as soon as a girl has attained puberty yet you are of opinion that intercourse should not be allowed before 14?

A. Yes, but I am not for a law, though I have no objection to a law of that kind.

Q. Do you think that at the present age of 13 there is injury? What is your objection to have it at 16?

A. I will have objection. First of all I do not grant the supposition that there will be injury in several cases. Granting that, there are other circumstances to be taken into consideration. On these slender grounds I do not think that long-standing institutions like marriage should be thrown to the winds.

Q. Even if there is injury, you think that there should be no legislation to prevent it.

A. It should be remedied by a change in the custom, and it is being gradually done.

Q. Are you for compulsory vaccination?

A. I am strongly against compulsory vaccination.

Q. Conscription?

A. I am against conscription.

Q. Are you against compulsory education?

A. Yes.

Q. And compulsory prohibition?

A. Yes.

Q. So that you would prefer liberty to every individual?

A. Yes, qualified in this way that it does not thereby affect his neighbour.

Q. Are there a large number of widows in your community?

A. There are some.

Q. Supposing the age of marriage is raised to 14, would not their number diminish?

A. Yes.

Q. Do you not think that the fathers or parents inflict this injury on minor girls before they can understand the consequences of their going through the ceremony, and are they justified in doing so?

A. At that rate till 21 you cannot marry girls.

Q. Do you not think that the father subjects her to injury?

A. I should say it is only a likelihood of injury. But that is compensated by various other considerations. At your rate you may damn every custom as wrong. Early marriage is practised amongst us so that the girl and the boy may learn to love each other in the intervening period between the betrothal and the actual consummation of marriage.

Q. Do you not think that the existence of widows in a community is injurious to the other communities, and to the State?

A. They are not worse than brothels which you have not put an end to. Such things will happen in every society.

Q. Is the system of child marriage not injurious to the rest of the society?

A. No; it is the other way. Compulsory widowhood helps other women to get husbands.

Q. Is that the reason why you advocate compulsory widowhood?

A. That is one of the reasons. But I am not one of those who think that widows should not be remarried.

Q. Do you think that widows should be remarried and that there should be a sort of compulsion by the State against the existence of virgin widows?

A. Then you can legislate and say that virgin widows should marry. But there are other evils in our society also.

Q. Are you in favour of 12 being the age of marriage?

A. I am not for fixing any age by legislation.

Q. As regards the age of consent do you think that there is no occasion for an amendment of the law of 1925?

A. There is no need.

Q. Are you aware that in 1925 the Legislature wanted to have the age at more than 13, but the Government interfered?

A. That is one of the rare good acts of Government.

Q. As regards your private conduct, I understand that you married your daughters when they were 12 or 13 and that they were consummated when they were about 16.

A. Yes.

Q. Would you like that other persons should do the same?

A. But the circumstances are not the same in all cases. All that I will do I will appeal to all Hindu gentlemen to follow my footsteps.

Q. Would you give the discretion to consummate marriage to the boys?

A. Generally although the boys are of age it is the parents of the boy and the girl who bring about the consummation and they can be relied upon to act in the interests of the boy and the girl.

Mr. Mitra : Is it a fact that you wanted to introduce a bill in the Local Legislative Council for the prohibition of drink?

A. Yes; I wanted to introduce local option.

Q. Is that not coercion?

A. No; local option simply means that there should not be shops in particular localities. If a majority of persons in that locality believe that drink is an evil then it should be done.

Q. May I take it that you are in principle against all sorts of social legislation?

A. If it does not affect the large majority in the locality concerned. Therefore local option.

Q. Are you not at the same time against the tyranny of the majority?

A. Unfortunately that is the rule of the day.

Q. Are you not against the tyranny of the minority as well?

A. Yes; if that tyranny affects the majority in any way.

Q. Are you not aware that there is an orthodox community in the country who want their girls to be married between the age of 8 and 12, and they quote the sloka "Ashta Varsha, etc.," in support of their actions?

A. The majority of the Brahmins here have got over it now.

Q. Are you thinking only of the vocal majority?

A. There marriages over 10 or 12 are recognised, though it is believed that there is a religious injunction on the subject.

Q. Have you any experience of the opinion of the orthodox Brahmins outside Madras Presidency?

A. I had an opportunity of talking with the orthodox Brahmins in the temple at Kalighat at Calcutta.

Q. Supposing the orthodox people in other provinces choose to stick to the Sastras, what would you suggest?

A. I will ask them to have the maximum age of 11. If a majority of people in any community believe that they should do a certain thing, certainly the Legislature should not penalise it.

Q. Are you for repealing the present age of consent law fixing the age at 13, because there are Sastras against it?

A. There is no Sastra fixing the age of consummation of marriage. Consummation of marriage is not a religious observance. It is only the practice for the consummation of marriage to be celebrated on an auspicious day.

Q. Are you aware that there is the authority of Aswalayana to the effect that consummation of marriage should take place within sixteen days of the first menses?

A. South India does not take Aswalayana to be an authority.

Q. There is a Sloka of Aswalayana which says that even if a girl attains maturity at 11, consummation should take place within 16 days of the first menses. Do you therefore think that the law of age of consent should be repealed?

A. If a large majority of any community at any particular place do not want it it should certainly be repealed.

Q. Supposing it is believed and practised amongst orthodox people?

A. Yes; if it is believed and practised. Parasara is against marriage between first cousins; but in the Madras Presidency not only Brahmins but a majority of non-Brahmins insist upon such marriages only. I therefore cannot call that religious, but it is a long-standing custom which has overruled the scriptures and I would respect it as such.

Q. Do you then respect customs more than their religious character?

A. Yes.

Q. Do you think that custom is changing from day to day?

A. Yes.

Q. Will you accept legislation if it is passed by a majority in the legislature?

A. Unfortunately there is no rule now about the majority of any community.

Q. In the case of local option, would you have it if it is passed by a majority?

A. If it is passed by a majority of members interested in that particular subject.

Q. If the majority of the Hindu members of the Assembly or the Indian representatives pass a law regarding marriage law, will you accept it?

A. So far as the marriage law is concerned, it does not affect the whole of the Hindu community. If any community follows it as a custom and if the majority in that community want it to be retained, then you must respect their wishes. The majority must both want it and follow it.

Q. Would you say that if the orthodox people want that there should be no law because the Sastras are against that, their wishes ought to be respected?

A. I am referring to a particular community, namely the Brahmin community in Southern India. The Brahmin community here does not entirely consist of orthodox people. For instance I am a man of liberal views so far as orthodox people are concerned.

Q. So you want the majority in a particular community should agree before you enact the law.

A. Yes; that community which is observing a particular custom and which is directly affected by the law.

Q. But does it not affect every community in India?

A. It does not affect the other communities so much as it affects the Brahmin communities in Southern India.

Q. There are orthodox people in Bengal who follow the Sastras more rigidly than the Brahmins here in Southern India, and there are a majority of them who do not want even the age of consent law. In such cases will you recommend that the law of the age of consent fixing the age at 13 should be repealed?

A. There is no orthodox community as such.

Q. There are Brahmins and Brahmins. There are sections of the Brahmin community who want neither the age of consent law nor the marriage law. Will you support them for the repeal of the age of consent law?

A. If any particular community in any particular place says that there should be no law and its practice is in accordance with what it says, then certainly I would favour the repeal of the law.

Q. Then if they merely vocally object to it, will you pay heed to them?

A. They must also practise before they object to the law. I am not for disturbing such communities by any law.

Mr. Mudaliyar: Are there some post-puberty marriages among the Brahmins to-day?

A. Infinitesimally small number.

Q. But the community does not take those people to task?

A. They may not for fear of defamation cases. They may not say openly against them but many people may not mix with them socially as they would have otherwise done.

Q. In the case of those marriages has the validity been ever challenged?

A. It is too early to say. It has not so far been challenged and therefore I say that there must be permissive legislation to help those people. Some difficulties may arise under Hindu law if post-puberty marriages become common.

Q. Do you seriously suggest that there may be legal difficulties?

A. I only want that this safeguard should be there if some cases come to a High Court. There may be no difficulty about property and other things when an issue results from such a marriage.

Q. Would you extend your principle that unless the particular community in which an evil exists feels that practice to be an evil and unless it affects the rest of the society to the Devdasis also?

A. Yes. Unless the Devdasi community by itself feels it to be an evil and wants some regulation about their property, succession and other things you should not legislate against them.

Q. You say at the end of your answer to question No. 21, though I am strong against early consummation of marriage, I am not for the present change within a period of 3 years after the last change. It will lead to vexatious prosecutions and party feelings resulting in unnecessary public excitement and annoyance. I have not quite understood the last line of that. Has that any bearing upon the period that has elapsed since the last amendment?

A. A good deal. After some years when the people become more reconciled to it you can change the law.

Q. But it is not on account of shastric injunctions that you apprehend that danger, it may be on account of the change being so soon.

A. On account of the change being so soon public opinion is not developed to that extent and whenever any consummation takes place before the prescribed age and even in false cases some men may trouble the innocent persons. A man may get his enemy "packroed" for nothing. This will be the result of hasty legislation.

Q. But so far there have been no vexatious prosecutions?

A. As I said very few consummations have taken place before 13 and the law is not known to the public.

Q. But supposing there are the safeguards which you have suggested of having a previous sanction of the District Magistrate before any prosecution and the offence being non-cognizable would there be much room for vexatious complaints?

A. Oh! yes. Prosecution does not consist in sending the man to jail only. There would be the petition before the District Magistrate, the police would make the enquiry, the Magistrate would enquire and there would be all this trouble. If you want to legislate at all then I propose this. If the worst happens at least have some mercy in the form of this safeguard.

Mrs. Nehru: You are very much for the liberty of individuals so far as it does not affect others, in connection with law, but do you apply the same principle to custom or are you in favour of the tyranny of custom?

A. I am not in favour of tyranny of custom at all. But I am not in favour of substituting one tyranny for another. I don't want the tyranny of law to be substituted for the tyranny of custom. You should gradually educate the public and remove the custom. I don't want one tyranny to be substituted for another.

Q. Is it not a fact that there is a large number of people who are being tyrannised by custom?

A. So far as consent is concerned or so far as marriage is concerned?

Q. So far as dowry is concerned, so far as consent is concerned and so far as marriage is concerned. In regard to all these things are the majority of people not tyrannised by custom?

A. Society is advancing and girls of 14 and 15 are married without any objection being raised.

Q. I am at present talking of the principle. Is it not a fact that there is a large number of people in the Brahmin community who desire the change but cannot do so on account of this custom?

A. But such cases do not occur at all. Now marriages beyond 12 and 13 in the case of those parents who really want them to be celebrated at that age are allowed. There is no fear of society.

Q. You mean that post-puberty marriages do not take place.

A. They do, to a small extent and society has been allowing it.

Q. Is there a large section of people who would like post-puberty marriages if they had not the fear of custom?

A. There are other reasons also. They generally believe in the utility of early marriages. Great many people believe in that. Perhaps even 90 per cent. of the people in the Brahmin community believe in that.

Q. But there are 10 per cent. of the Brahmin community who believe that it is not good for their children to have early marriage?

A. Why should you tyrannise a majority for the sake of a minority?

Q. But this law will not apply only to the Brahmin community?

A. So far as others are concerned this law is unnecessary and therefore it is a tyranny over the Brahmins.

Q. But there are other people also besides the Brahmins among whom early marriage is practised and this law will apply to everybody.

A. There are no others. It is only the Cometies who follow this example. I can't say anything about Northern India.

Q. What will you propose for those 10 per cent. who want to marry after puberty?

A. Let there be a law that their marriages shall be recognised.

Q. Are you advocating exemption of the Brahmin community from the operation of such a law if one is made?

A. If you think legislation is necessary, my evidence will come to that and there is absolutely no necessity for other communities. Exemptions must be granted to all communities where the custom prevails and the law will become useless.

Q. But how will you help those 10 per cent. who are at present keen on having post-puberty marriages?

A. Pass a permissive law that post-puberty marriage shall be valid. But what have you done for the widows? They are also being tyrannised by a majority. You have not gone to the root at all. What have you done to prevent the death of so many young men?

Q. There have been many meetings held in Madras in support of the age of consent law and we have been told by those who attended those meetings that great many Brahmin women also attended there and supported those resolutions. If the Brahmin women are your rulers and they want a change why don't you submit to your rulers?

A. But I differ in social matters. They are our rulers, it is true. My wife rules me as other ladies do in their own houses.

Q. Brahmin ladies have come before us and given evidence in favour of an advance. Even this morning I had the pleasure of meeting some ladies and I have not found a single Brahmin lady who is opposed to this legislation. Unless a plebiscite was taken there was no other means of finding out who was in a majority.

A. Plebiscite is no new suggestion. Wherever such big legislation is undertaken plebiscite is taken. The unfortunate thing is that our ladies do not come out in public places like these. The Legislative Council Secretary will tell you how many orthodox ladies come in the gallery.

Q. But the majority of women in this Presidency are in favour of the legislation.

A. But why do you ignore us, Brahmin men? If I marry a girl before a particular age, I will be sent to jail. Why do you say we are doing things against our women? Every woman is a ruler in her house. I don't deny the fact. But there are ladies against this legislation. My wife would not consent to it.

Q. She may be an exception.

A. Why do you say "exception"? She is the President of a women's association in Coimbatore.

Q. I only want to point out that in Madras Brahmin ladies have come forward and have expressed themselves in favour of a change.

A. There have been protest meetings also against this legislation.

Written Statement, dated the 10th August 1928, of Rai Bahadur T. M. NARASIMHA CHARLU, B.A., B.L., Cuddapah.

I am not at all sure whether the proposal to alter the Age of Consent is either called for or necessary. Every effort should no doubt be directed to remedy evils, if any, but this is merely an attempt by social reformers to force their views on an unwilling people by means of legislation. Even if this Bill becomes Law, it will prove neither practical nor effective. Again, it is a mistake to suppose that age is the only determining factor. The general health of a girl is one of the chief factors which is often lost sight of in considering the question. A girl may be sixteen and yet puny and miserable, whereas another may be twelve or thirteen and blooming and healthy and fit. It all depends not merely on age but on the general health and various other circumstances, I wish that our legislation is directed to secure material comforts instead of trying to redress such imaginary evils and to bring about after all doubtful results.

I think that the proposed section 376A is quite unnecessary. In my part of the country the majority of the population who are non-brahmans marry their girls after puberty which they attain generally between thirteen to fifteen years. Brahmana and Vaisyas who form not even five per cent. of the population have to marry their girls before they attain puberty; but generally postpone consummation till some time after they attain puberty. Even among them there is a growing sense to postpone marriages till the girls attain twelve years of age and consummation till they attain fourteen years of age.

In my district (and the same of the other three of the Ceded Districts) which is considered a criminal one, there have not been even four cases of rape during the last six years. After I received your letter I made enquiries and I am assured that such instances are either rare or do not exist.

With these preliminary observations I shall proceed to answer the questions *seriatim* :—

1. None. On the other hand there was no occasion for any such dissatisfaction.

2. I am not for any change in the existing law, as there is no necessity for it.

3. No. The amendment in 1925 has had no effect one way or the other, for the simple reason that there are no such evil practices in my part of the country. No grievance and no redress.

4. The growing good sense of the people and not the amendment in 1925 has been slowly and surely effecting the desired reform.

5. In the case of non-Brahmans who form the majority, girls attain puberty at about fifteen years of age. In the case of Brahmana and Vaisyas they do it generally at about thirteen years.

6. Very rarely or none. During the last six years there was only one case before court in my district of a girl of twelve years having been raped.

7. No. There is no religious injunction that there should be early consummation at or before puberty in any caste or community. I am not aware of any such injunction Shastraic or customary.

8. Yes. There is Garbhadanam ceremony in my country. It is done after puberty. Not necessarily soon after but never before puberty. It is postponed to one or two years after puberty in several cases.

9. This is rather a difficult question to answer by laymen. I think however that girls attain puberty when they are sufficiently developed though not fully. As in practice their consummation takes place some time after puberty there does not appear to be any injury to the health of the

girl or her progeny. I have stated already that age alone is not the sole criterion for determining the development of a girl.

10. It is difficult to say at what age a girl can give an intelligent consent to cohabitation with a due realisation of consequences. Desire to cohabit is like hunger and thirst—a natural instinct. It does not wait till the maturity of the mind and understanding is reached. If this is the test, no girl ought to marry before eighteen to twenty years of age. This being impossible this test should go.

11. I do not deny that cohabitation before or soon after puberty will have a deleterious effect on the general health of the girl. But such cases are not general any more than those of boys indulging in it immaturity. As for the progeny while immature development of the mother may affect the general health of children it should not be forgotten that the latter suffer more often after birth on account of bad upbringing, unhealthy surroundings and want of proper nourishment. It is not therefore fair to forget these points and attribute the immature development of the mother as the sole cause of the weaklings. I am not aware of any instance where I was convinced that any girl or her infant suffered directly as the result of the girl's cohabitation some time sufficiently after puberty.

12. From what I have stated above it is clear that I am not convinced that there is high maternal and infantile mortality as the direct result of early consummation. By "early" I take it to mean one or two years after puberty. I do not understand what is meant by "early" maturity in your question. How can you prevent it by legislation or otherwise?

13. There is no public opinion at all. People do not even know of the 1925 amendment of the law. Things go on as before in a jolly manner.

14. Women are generally shrewd and clever and they know how to put off early consummation by urging many plausible reasons and domestic difficulties. They know also how to bring away daughters from their husbands' homes and detain them for months together on some pretext or other, thereby giving to their daughters sound rest and good feeding.

15. There was no case of rape by a husband in our parts and hence the difficulty of fixing the wife's age did not arise. In the few instances of rape on non-wives, there was no such difficulty. At present there is a Registry of births very perfunctorily done, which is neither regular nor correct. The Government should take adequate steps to get births properly registered.

Oral Evidence of Rai Bahadur T. M. NARASIMHA CHARLU, B.A., B.L., Cuddapah.

(Madras, 21st November 1928.)

Chairman : How long have you been a member of the Bar?

A. For 32 years.

Q. What is the population of Cuddapah district?

A. They are mostly Kapus. They are like Vellalas devoting their time mostly to cultivation.

Q. What are the communities among whom pre-puberty marriages take place?

A. Brahmins, Vaishes and the Cometies.

Q. What percentage are these people to the entire population?

A. The Brahmin population is very small.

Q. Are the Brahmins and Cometies together 2 per cent.?

A. Even less than that. Whole villages go without Brahmins.

Q. Have you had any meetings at your place to thrash out this question?

A. We had no meeting and these are my individual views.

Q. Are you connected with any reform association?

A. No.

Q. In your answer to question No. 4 you say, the growing good sense of the people and not the amendment of 1925 has been slowly and surely affecting the desired reform. What is this reform you are referring to?

A. Reform towards marrying the girls and getting their consummation at a later age than what is prevailing now.

Q. What is the age of marriage and the age of consummation among the privileged classes?

A. The marriage is generally done between 12 and 13 and consummation takes place between 14 and 15. There are cases where marriages take place earlier also. But that is the general age.

Q. Before 15 most girls have the marriage consummated.

A. I suppose so.

Q. Have you any ideal to which the growing good sense of the people should go?

A. The ideal is to make every woman know what she does. That is the ideal, but there are certain other considerations which intervene by which we are unable to realize that ideal.

Q. But what is the age you would go to?

A. In that ideal state every woman shall have the liberty to marry or not.

Q. But going short of that do you think there is an age good enough to consent?

A. If the theory of compulsion is to be abolished no age should be fixed.

Q. Do you admit that the present system is a system of compulsion?

A. Because it has got the sanction of religion.

Q. You mean when we marry our girls before puberty, it has got the sanction of religion. Why do you call it compulsion?

A. Because religion dictates.

Q. That is a very healthy injunction, it is not compulsion.

A. When you direct me to do a thing I am compelled to do it. I call it compulsion.

Q. You seem to differentiate between custom and religious injunctions?

A. Custom as recognised has the sanction of religion even according to the Smriticars and therefore I do not find any reason for distinguishing between custom and religion. If custom is contrary to religion custom prevails. According to Manu and other Smriticars custom must prevail if it goes against original shastric injunction.

Q. What is the custom about consummation?

A. There is no such thing as custom with reference to it. People are allowed to have consummation at any age after puberty generally one year after puberty.

Q. Do you think that this results in mothers below 15?

A. There are sometimes girls who become mothers before they are 15.

Q. Have you known any case in these pre-puberty marriage people where the girl has suffered or resulted in the death of the child?

A. Age itself is not the sole criterion.

Q. Nobody says that is the sole criterion. Is it one? Does it lead to infantile mortality as one of the causes?

A. One thing reacts on the other.

Q. You suppose they are connected?

A. I suppose so.

Q. You say neither the Age of Consent nor the law fixing the age of marriage if enacted would be effective. If a law fixing the age of marriage is enacted and marriages below 13 or 14 are interdicted and the parents are punished, do you mean to say it will not be effective?

A. It depends upon the proof of age.

Q. Proof of course is always required. Why should it not be effective? Questions of age arise under sections 306A, 188 and so many other sections of the Indian Penal Code and they are being settled and in this case also it should not be difficult.

A. These sections are those wherein others are affected and they are easily exposed.

Q. If marriage is interdicted at 14 and parents are convicted for the breach, do you mean to say it will be ineffective?

A. In how many cases have there been convictions after the amendment of 1925?

Q. But the question of Age of Consent is different from the question of the age of marriage.

A. But the difficulty is that people who are concerned in that offence will not expose the thing.

Q. I concede that in the case of Age of Consent. But in the case of age of marriage it is a different thing. It is an open public ceremony. The *Purohit* will know the age, the relations will know the age.

A. They will give the wrong age when it comes to prosecution.

Q. Don't you have a system of birth registration in your municipality? Is there not the chance of finding out the age from the birth register?

A. There is also a chance of interpolating the birth register.

Q. Are there not any questions of majority and minority arising in your part and how are they decided?

A. Even the other day I noticed that an extract from the register was produced and when the original was sent for it was found that the figure had been altered.

Q. But in the generality of cases you can depend upon the original. If the system of registration is made more accurate would it meet your objection?

A. No doubt, you may be able to find out the age in that way but you want to convict the relations of the girl and therefore every recourse will be had to suppress the whole thing and what is the use of your legislation therefore.

Q. Do you think that in any offence where there are chances of suppression there should be no legislation?

A. Why should the country spend so much time and money for the purpose of ineffective legislation?

Q. Do you like that the minor girls and their infants should suffer?

A. They may suffer in health but the preponderating opinion is that they gain in morals.

Q. What is the age generally when consummation takes place among people who have post-puberty marriage?

A. They do not fix any age but you may take it that within a year of the attainment of puberty consummation takes place. It takes place sometimes soon after marriage or sometimes one or two months later.

Q. Do they marry after 16?

A. Oh yes. The Kapu girls who look weakling in tender age grow enormously when they attain the age of 15 or 16.

Q. But I want to know whether they are married after 16?

A. Yes. They marry at 17 or 18. But they do not attain puberty early because they are always working in the fields and do lot of manual work.

Q. Take the condition of the girls who marry after puberty and those who marry before puberty, would you say that the girls themselves and their progeny are better in the former case?

A. The surroundings and habits of the pre-puberty classes are certainly better than the surroundings and habits of the post-puberty classes and consequently the disadvantages of early marriage are counterbalanced by the advantages of surroundings, better habits and better food.

Q. What do you consider is the safe age for a girl to become a mother so far as her health is concerned and the health of the progeny is concerned.

A. We can't go by age.

Q. Would you say two years after puberty whenever it occurs?

A. I think it will take sometime for the girl to develop fully after the attainment of puberty. I will put it at one year.

Q. If a girl attains puberty at 12 you think 13 is a good age and if she attains puberty at 13, 14 is a good age and if she attains puberty at 15 16 is a good age. Is it so?

A. You can leave a margin of one year after puberty. I would not consider it beneficial in the interests of the health of the girl to have consummation earlier than one year after puberty.

Q. Are you now satisfied with the age at which consummation is performed among the people who have pre-puberty marriages?

A. I don't feel any dissatisfaction at all.

Dr. Beadon : You say in the course of your answer to question No. 11, I am not aware of any instance where I was convinced that any girl or her infant suffered directly as the result of cohabitation sometimes sufficiently after puberty. What exactly do you mean by sufficiently after puberty?

A. About a year.

Q. Are you aware of any case in which the girl has suffered as a result of early consummation?

A. I have not personally observed any case.

Mrs. Nehru : Can you suggest any means by which this custom of early marriage and early consummation may be abolished?

A. So far as I know, in these parts, the old ideas are gradually changing. The parents are desirous to marry their girls at as late an age as possible.

Q. Since how long has this change come about?

A. For the last 30 years. The common age of marriage which was once 10 has now become 13.

Q. Has not this propaganda been going on for the last 100 years?

A. It is not merely due to propaganda. It is due to several other causes, economic as well as sufficient advance of education. All these things are bringing about a very desirable change.

Q. Does it not show that propaganda has not achieved even that much which we generally give it credit for?

A. Propaganda also has contributed something to it. It has helped to a very small extent.

Q. Do you think you can afford to wait while this slow process of propaganda is working? How long will it take before the desired change comes?

A. It is very difficult to say. Once the marriage takes place and the girl has attained puberty, the husband and the girl get an opportunity to mix with each other. Sometimes they mix in the public and sometimes in private and consummation naturally takes place.

Q. Would you then recommend the minimum age of marriage to be fixed to deal with this evil?

A. What I recommend is this. Let the law say that no marriage shall become invalid merely by reason of the girl having been married after puberty. If there is a law like that there is the safeguard provided for the validity of that marriage and I think the growing good sense of the people would act upto that.

Mr. Kanhaiya Lal : But has such marriage ever been questioned? Throughout India not a single case of that nature has come up?

A. The safeguard is necessary.

Mrs. Nehru : You say in paragraph 3, "there have not been even four cases of rape during the last six years. I made enquiries and I am assured that such instances are either rare or do not exist." By this do you mean to say that they are not brought to light or that they do not take place at all?

A. They are not brought to light.

Q. Have you heard of any cases which have not been brought to light?

A. I have not.

Q. You say there is no dissatisfaction as to the Age of Consent. If we went by the meetings one should have thought that there was dissatisfaction. Is that not so?

A. I do not believe in those meetings. It is only the social reformers who convene the meetings the pass the resolutions. They have got very little value as evidence one way or the other.

Chairman : How would you collect evidence of the two characters then?

A. From people like myself.

Q. How do we know that you are the representative of the people?

A. You must trust me.

Q. We trust those people as well as you. We make no distinction. How is representative public opinion to be gathered?

A. If you can spare time, you must go to the villages without telling the villagers that you are coming.

Q. We have gone to one or two villages and those particular villages were for raising the Age of Consent.

Mrs. Nehru : May I know why is there any difference between Brahmin and non-Brahmin girls as to the attainment of puberty?

A. That is all due to their up-bringing.

Q. In what way is the up-bringing of Brahmin girls different to non-Brahmin girls?

A. That is a fact which I can't account for. The fact is that it is so.

Q. In answer to question No. 6 you have mentioned a case of a girl of 12 having been raped. Was that a marital case?

A. That was a non-marital case.

Q. In the course of your answer to question No. 8 you say, Garbhadan ceremony is postponed to one or two years after puberty in several cases. Among which class of people is it done?

A. It is among the pre-puberty marriage class, i.e., the Brahmins and the Arya Vaishes.

Q. Does it not mean that no consummation takes place before 15?

A. Somewhere about that.

Q. So that you can fix the age at 10.

A. The age of the girl is not a determining factor.

Q. But for purposes of legislation some age has to be fixed. Apparent development of the girl cannot be taken. What age would you suggest therefore? We have already got the limit 13.

A. We might remain where we are.

Q. In answer to question No. 14 you say, women are generally shrewd and clever and they know how to put off early consummation by urging many plausible reasons and domestic difficulties. They know also how to bring away daughters from their husbands' homes and detain them for months together on some pretext or other, thereby giving to their daughters sound rest and good feeding. Does that mean that they are ordinarily against early consummation for their children?

A. They are not in favour of early consummation. They would avoid it as much as possible.

Q. If they are given help by fixing the age limit for consummation wouldn't they like it?

A. I can't answer that question whether they would like it or not. No one will like compulsion.

Q. It will only help them, in carrying out their wishes and desires. It is not compulsion.

A. It is very difficult for me to answer that question.

Q. In answer to question No. 19 you say it is better to safeguard against improper prosecution or extortion. What safeguards would you suggest?

A. The prosecution should be with the sanction of the District Magistrate and the police should not be entrusted with investigation.

Q. Then who should investigate?

A. Let the magistrate who will sanction the prosecution hold a preliminary enquiry and see whether there is a fit case to go before the court.

Mr. Mitra: May I take it that you are on principle against social legislation because it interferes with the domestic affairs of the people?

A. Yes.

Q. You say the Brahmin and Vaish girls attain puberty earlier than others. Is it a fact that early marriages are also among these two communities?

A. I think so.

Q. It has been suggested by some that early marriage is the cause of early attainment of puberty. Do you agree?

A. It may be on account of some mental attitude. I cannot answer that question whether early marriages are the cause of early puberty.

Q. You are for giving freedom to all people so far as practicable.

A. Certainly.

Q. Is your objection to legislation mainly due to the fact that you want to give liberty to the people or that you are on principle against any interference with domestic affairs? What is the main reason?

A. My main reason is that until society that is governed by Hindu religion feels and creates a custom which will override the original precepts of religion legislation has no place.

Q. It means that effort should be made to change custom.

A. But never by law.

Mr. Shah Nawaz: Even if the custom has bad effects?

A. If it is really a custom it is binding on the people and if it has bad effects how can it be binding?

Mr. Mitra: You say that religious injunction can be superseded by custom which has grown out of the practice of the people.

A. Our commentators of the law say that custom should be honoured in preference to the original shastric injunction.

Q. So it logically follows that there is a change in society and these customs also change.

A. Most certainly there will be change in customs.

Q. So that hundred years hence you may find that no girls are married before 18.

A. The custom is changed by some and this minority gradually becomes a majority and that is why I invite propaganda. If it becomes a custom it becomes binding on the people.

Q. You don't think there is anything in the shastras that will stand in the way and on the other hand the scriptures sanction customs as having priority over shastric injunction.

A. Yes.

Mr. Bhargava : You are not for marriage law or the consent law?

A. No.

Q. I understand that you want that this marriageable age may be raised by propaganda.

A. Yes.

Q. Do you think that the ideal will be reached though it may take 50 or hundred years hence?

A. Gradually we will come to that.

Mr. Bhargava : I want to know barring aside the custom as well as the religious injunction, what age would you put for the girl?

A. I will put one year after puberty.

Q. That is to say 16.

A. Whatever it might be.

Q. In your answer to question 14 you say that women are generally shrewd and they know to put off early consummation by plausible reasons and domestic difficulties. Are these devices by clever and shrewd women resisted by male members or are they not resisted?

A. I only mention there how the custom is going on.

Q. I want to know as a fact.

A. They are not resisted at all.

Q. I want to know whether they realise that early consummation should be avoided. I mean to say do they realise the benefits of late maternity?

A. Consummation of marriage is postponed not because they realise the benefits of late maternity but because they may postpone their girls going to their husbands' houses.

Chairman : Is it not a fact that if the bridegroom's people insist upon sending the girl, no objection can be raised by the girl's people?

A. Of course the girl's parents cannot refuse to send the girl.

Q. Then is it not a fact that it is the pressure of the husband's people that acts upon the girl's parents?

A. I don't think it is the pressure but they mutually accommodate and defer the consummation of marriage.

Mr. Bhargava : Are there many child widows amongst the brahmins?

A. Not many. There are.

Q. What is their condition?

A. It is deplorable.

Q. Then you say that when a girl is of an immature age she is sent to her mother-in-law's house.

A. Yes; and she is put to lot of troubles.

Q. You have said in paragraph 13 that things go on in a jolly manner. That means it is only jolly for the males and not for the childwidows and girl wives you are satisfied with the present society?

A. I mean to say that the old state of things continue in a jolly mode. That is all what I mean by jolly.

Q. I understand that you feel very much for the childwidows.

A. Yes.

Q. Do you realise that if the marriageable age is increased, automatically the number of childwidows will be lessened?

A. Yes.

Q. May I know why you don't want the fixing of a marriageable age at a fairly high figure?

A. You always think of the material world only. Do you mean to say that because you raise the age therefore the number of childwidows will be less? Most certainly not. A girl becomes a widow without knowing why she becomes a widow.

Q. If marriage is not celebrated before 14, then there will be no childwidow before 14. Is it not so?

A. Yes I agree.

Q. In view of this, would you not like to fix the age of marriage at 14?

A. No: I would'nt.

Chairman : Supposing the age of consent is raised to 16, don't you think that the marriageable age will automatically rise up?

A. I don't think so.

Q. If you accept it as one of the remedies, viz., not the age of consent but the age of marriage and if marriage is done at a late age say at 14 or 15, will it not save the widowhood of many girls?

A. If you raise the age of marriage itself, of course so many girls would be saved.

Q. Do you realise that after all nobody is harmed by raising the age and you will be bettering the position of many girls?

A. You are assuming in future if the girls are married below 14, there might be some widows; but I say there need'nt any widows at all.

Q. Do you mean to say, that from to-morrow there will be no widows under 14?

A. There need'nt be.

Q. What are the chances? Why there need'nt be?

A. It is only an inference.

Q. Is it not a certainty?

A. I don't think so.

Q. Don't you think that if we make a law like that the chances of a girl becoming a childwidow are much less?

A. Supposing you make the marriageable age as 14, and the husband dies the next day of the marriage, does she not become a widow at once?

Q. That is a different matter. You cannot save all the girls becoming widows.

A. These are all mere speculations.

Mr. Bhargava : You are very much in favour of liberty being given to girls.

A. Yes.

Q. Will you give this liberty to child-widows to remarry?

A. Not that I am in favour of it but I am not against it.

Mr. Shah Nawaz : Do you represent the views of the brahmins generally when you say in paragraph 7 that there is no religious injunction that there

should be early consummation at or before puberty in any caste or community?

A. It represents all classes so far as this is concerned.

Q. Is it not a fact that almost all the brahmin girls are married before they arrive at the age of puberty?

A. Quite so.

Q. Don't you honestly think that the time has come when a woman should have a voice in the selection of her husband and pre-puberty marriages must be abolished?

A. Then you have to postpone the marriage till after 18.

Q. You say that the custom can be changed and liberty should be given.

A. If you want to give them liberty wait till they become 18.

Q. Don't you want all this kind of legislation?

A. Supposing you raise the age can they be consulted? Can they give an intelligent consent?

Q. You say that the custom ought to be changed; and that your ideal is 16 years. What I want to know from you is, has not the time arrived when this custom of marrying girls before they arrive at the age of puberty should be changed and give them the liberty to select their own husbands?

A. If the aim of the present attempted legislation is to make the girls a willing and consenting party well it is one thing but if it is not that aim and simply if you want to raise it to 13 or 14, I should say you don't improve matters by raising it to one or two years in which case also they cannot give an intelligent consent.

Chairman: Supposing we fix the age at 18, can you say that they are fit for giving consent?

A. Yes.

Mr. Shah Nawaz: I am asking you a simple question. Is not the time ripe yet?

A. Not yet.

Q. Are you in favour of giving votes to women for the purpose of the Legislative Council?

A. We do not give it to children. We give only after they are 21.

Q. You won't give votes to children but you will force them to marry. You don't want to give any choice to select her own husband.

A. If you leave girls like that, they will make a bad choice and they will ruin their lives.

Q. Will the parents make a good choice?

A. Yes.

Q. In the present time on no account you will give a choice to the girl. That is what it comes to. Is it so?

A. I think the time has not yet come.

Q. Do you want that they should be educated?

A. Yes.

Q. How are they to be educated if they are married at an early age?

A. They are being educated now.

Q. Will the education be not interfered with? Supposing a child is married and her marriage is consummated at 12 or 13 how is she going to be educated?

A. What is your idea of educating a girl? If it is simply reading and writing, she learns sufficiently before she is married.

Q. Do you think that a woman should not pass her matriculation examination?

A. She is the lord of the house and we are the lords outside the house. She has got her own duties. Now on account of the confusion of these duties all this difficulty arises.

Q. What are the rights and duties of a woman?

A. She has to attend to the household work. She has to do several other things in the house. She is to be a good wife, a good mother, and a good manager and so on.

Q. Is she not to take part in the works of the State?

A. We are confusing one dharma with another dharma. Several houses are vacant and the wife goes one way and the husband goes the other way.

Chairman : Have'nt you broken the dharma in learning English and not studying the Vedas?

A. I have studied the vedas also. I have studied the Koran and the Bible.

Q. Have you studied the Vedas?

A. Yes. I am a Krishna Yajurvedi.

Mr. Shah Nawaz : Tell me truly whether the girls like to be married at the age of 12?

A. The girl has no voice at all.

Q. Should she not have any voice even at the present day?

A. Then she must wait till 18.

Q. Have you asked the opinion of elderly ladies whether they want their girls to be married before they arrive at the age of puberty?

A. It is they who are killing us to marry the girls before she arrives at the age of puberty.

Q. Could you give me any reason for marrying the girls before puberty?

A. The idea of the parents is that they must provide a suitable husband for the girl so that she might be prosperous in future life. The girl in her 18th year might choose a begger and she might be deserted.

Q. Won't you, having regard to the present condition, rather wait for four or five years?

A. I say it is very difficult if she is to have a voice in the selection of her husband I say I would rather allow it to be evolved in the society itself instead of her choosing herself her own husband.

Q. How are you going to evolve it?

A. We have evolved from 8 years to 12 years.

Q. That is immaterial. That is about pre-puberty marriages. What I want to know from you is as to how you are going to evolve the idea that a girl is to be married after she arrives at the age of puberty?

A. I don't think it will be to the interest of the girl, but we consummate after puberty.

Q. Finally when you say that this is the custom and this is not the religion, don't you see that it strikes to an ordinary man extraordinary that a girl after she had arrived at the age of puberty should'nt be considered fit to give her consent while the parent on her behalf should give her consent before she has attained the age of puberty? Would it not be better, seeing the present day conditions and in the best interests of the society and the girl—as you say that a girl should be given a choice in the selection of her husband—that her consent should be taken in the selection of her husband?

A. The time has not yet arrived. As a matter of fact every girl knows what is going on. Some times she says that she will not marry this man and so on but it is not an intelligent consent though there is some sort of consultation.

Mr. Kadri : Suppose if we have a marriage legislation fixing the minimum age of marriage, what age would you recommend?

A. So far as the non-brahmins are concerned, you may fix any age but so far as the brahmins are concerned you may take 12, without injuring their sentiments.

Q. Will not the non-brahmins object if we fix 18 or 16 saying that no marriage shall be celebrated below this age?

A. They won't at all object.

Q. Supposing there is legislation for fixing the age for consummation of marriage what age will you put?

A. One year after puberty.

Q. Would you think there is any real objection as to the validity of the marriage if it is celebrated after puberty?

A. That question was not tested.

Chairman : Are you aware of the fact that there is a *prayaschitta* for a girl who attains puberty and who marries after that?

A. I know even an instance in which a girl had attained puberty. The *prayaschitta* is only meant for a thing which you unconsciously do.

Q. Whether a thing is done consciously or unconsciously don't you think that by *prayaschitta* the sin is gone?

A. I beg to differ from you Sir. *Prayaschitta* is only meant for exceptional cases.

Mr. Kunhaiga Lal : Are you aware of the fact if a girl attains puberty during the celebration of the marriage, the marriage can be completed after a purification ceremony?

A. Yes: I am aware of the fact.

Q. Similarly are you aware of the fact that a provision is made in the shastras for cases in which a girl has not been married by the father after attaining puberty for three years, and she herself can marry after that?

A. There is a provision to this effect.

Q. Are you also aware of the provision made by Manu that if a girl is unable to get a suitable husband she can remain unmarried?

A. Yes.

Q. You say you have studied the Vedas and authorities. Can you say whether there is any provision anywhere to the effect that a marriage celebrated after puberty would be invalid and unenforceable?

A. There is an injunction coupled with custom which custom is being observed by us and if we violate it we consider it a breach of the law.

Q. There are various recommendations made by the shastras for which either penance or some penalty is provided but the breach of those recommendations would not necessarily involve any disability in the eyes of the law. Don't you think so?

A. True. There is the sentiment and public opinion also. We have to overcome these.

Q. Is it customary amongst the Telugu Brahmins to have early marriages?

A. Yes.

Q. What about other Indian Brahmins?

A. I don't know anything about them.

Q. What about the Kalinga Brahmins?

A. I don't know anything about them also.

Q. Do you know anything about the Salehs?

A. They are non-brahmins and I don't know much about them.

Written Statement, dated the 8th August 1928, of U. P. KRISH-NAMACHARYA of Benares, 162, China Bazar Road, Madras.

1. "*Dissatisfaction*" with the working of the Sections 375 and 376 of Indian Penal Code.—People do not wait for the statutory age so that consummation (or Garbhaddan as it is called by the Hindus) is invariably brought about after the first appearance of menses or very soon after. Hence no sort of "*dissatisfaction*" is ever felt by them in this respect. They are perfectly satisfied with the present state of things within "*marital state*".

Perhaps a small group of the so-called social reformers may feel dissatisfaction that the sections do not work well in practical life or that they still fix the Age of Consent so very low which Dr. Ghour now asks the Government to raise. As will be seen in subsequent paragraphs in my reply, no legislation will be workable in this direction: any further raising of the age within "*marital state*" will only redouble the folly of legislature.

2. (1) The law under consideration now, may remain "*as it is*"; for, as the subsequent paragraphs will explain, all legislation here must be futile, so that it may even be advised to remove it altogether in respect to the sort of restrictions which it attempts to impose upon the married pair, as this procedure may save the dignity of law.

(2) Further raising of the age will affect the religious susceptibilities of the people, besides being a folly. It will increase social evil as it did in the West, destroy the peace of homes and feed the cause of disease.

3. Crimes of seduction or rape are more rare in south of Madras than so common in the frontier provinces. The reduction of seduction or rape "*outside the marital state*" subsequent to the raising of the age to 14, is very little. Because the psychology which tends to seduction or rape schemes in darkness and attempts at freedom from detection with all the wily art of dishonesty, hypocrisy and cheating; and also most cases of seduction or rape are relating to girls of about 14 years. Though a more efficient police management and perhaps a severer system of penalty than what at present is found may check the spread of seduction or rape to some extent. I am convinced, a revival of social power and control, a reinstatement of domestic influence of elders plus public education may do a great deal more than all governmental interferences. The laws enacted by a Government ought not to curb down these real factors of the strength of a nation. This principle holds good especially with a nation under foreign rule.

4. (1) The amendment of 1925 has been a more thorough failure "*within the marital state*" than outside it. Because none of the factors of hypocrisy and fear prevail here; but on the other hand, public opinion supports the idea of the married pair indulging in cohabitation before the girl reaches 18 years (and this in case she has attained puberty), elders sanctioning and religion sanctifying it, in spite of a handful of social reformers who may keep their daughters unmarried even after that age.

(2) What is public opinion? Is it the opinion of the majority, among whom there are more learned men, learned more, than a minority of dissenters or the opinion of these latter few? Then the opinion of the majority—and that too is the opinion of the learned—is still the same as it was years ago. It condemns the very idea of postponing the consummation (unreasonably) long after puberty. For, the religious sentiment of the people requires that the marriage of girls should be performed before puberty and consummation soon after it, i.e., before the second menses. Those fair-minded gentlemen, who are afraid of seduction, and other evils "*outside the marital state*" and become anxious to safeguard the cause of purity (Kshetra-shuddhi, i.e., maiden-purity by thought, word and deed, and Bija-suddhi, i.e., celibacy by thought, word and deed)—and they are still the majority in our country—always support what the Hindu religion lays down. The Bills of this nature are always put down by the people of India as being the results of immature thinking and Western education. So the amendment of 1925 has

not at all helped the reformer's cause " by stimulating public opinion " in the direction of postponing consummation. Also *vide* reasons mentioned previously.

(3) Nor has it (the amendment) aided in the direction of putting off marriage " beyond 13 ". The communities in which early marriage is a necessary injunction continue the same custom immemorially. They marry girls before puberty. The limit of 13 does not matter at all. Certain families find girls attaining maturity before 13; others at or after 13, rarely after 15. The custom of pre-puberty marriage prevails in them all, irrespective of the ages of puberty. If in families, where girls attain puberty after 13, marriages also take place after 13, that is not due to the amendment of 1923, but to financial and other domestic difficulties. Always parents are anxious to settle their daughters before puberty, as early as possible; they never postpone marriages till after puberty.

5. As scientists too can prove, girls attain puberty in the Indian climate between 12 and 14. Cases of puberty before 12 or after 14 are limited. Doctors understand that cases of puberty after 16 are already pathological. No difference in respect to castes is known, as regards the age of maturity, though of course, as biologists record, certain conditions of civilization may quicken the approach of menses, irrespective of caste or community: e.g., luxury, fashion, stimulating foods and drinks and scenes and books of lascivious suggestions.

6. In India cohabitation is very rare before puberty. The criminology in this direction is far less among us than in certain other quarters of the civilised world. (3). The age of 13 does not matter again. (2). 13 or above or under, if the girl attains maturity, her consummation is soon looked for, sanctioned by the society and approved by religion. But be it noted that maturity takes place generally between 12 and 14, so that consummation cases before 12 are very rare. Since these early consummations are sanctioned by the society and religion, they never come to court.

7. " Early consummation before puberty " is ruled out by the remark in Answer 6. " Early consummation after puberty ", which is in vogue in our country from time immemorial, is enjoined by religious injunctions. For texts and authorities kindly refer to my Letter to His Excellency the Governor of Madras about the Child Marriage Bill, enclosed here. Smritis (codes of Hindu law) invariably enjoin it. Aswalyana Grihya Parishisht, Chapter I and several other Grihya Systems make it necessary to perform consummation even on the first appearance of menses with a view to declare the girl's fitness for motherhood. E.g., Bhavadeva has many Mantras, among which one is:—

" O Thou eternal Sun, the Maker and Protector and Destroyer of the Universe, I offer thee oblation on the first event of Menstruation."

A sort of confusion exists among the modern scholars, that Vedas do not enjoin this or that system of marriage and that therefore Smritis and Grihya Sutras which are later productions may be set aside. These so-called later productions are also centuries old and are considered by the Hindus to be highly authoritative, though a little less than the Vedas. They can never be set aside as unauthoritative, unless they are clearly contradicted by the Vedas. So practically both of them are equally binding upon the Hindus. Also the Samhitas or Mantra portions, which are so to speak Vedas proper, are but *soulful* addresses and prayers to gods, like the one of Bhavadeva quoted above. Being addresses, they are invariably referring to one or another of the great events of life, like initiation, marriage, consummation, birth and so forth. The various Sutra Systems (and they are not on that account later productions) give instructions to their votaries when and where in the life of an individual those Mantras should be employed. Thus in respect to marriage, there are Mantras to be employed when " *pea* " is to be first taken or when the pair must take to the same bed; and there are Mantras relating

to actual sexual intercourse (Garbhadhan Mantras). It is not necessary to use the latter, when no occasion for the act arises, i.e., before puberty, when marriage happens to be pre-puberty. But for all that, occasions may arise even before puberty, which common sense or justice cannot forbid, for the young husband and wife to do several kinds of mutual services; and in such cases Hindu Religion requires one to sanctify such acts by Veda Mantras even on their first committal. So in communities where pre-puberty marriages are in vogue, the two ceremonies are kept apart and the two respective sets of Mantras: [Kanyadana, the fundamental "kriya" of the first four systems of marriage among the eight mentioned by Manu and other law-givers, in which ceremony Mantras (exclusive of Garbhadhana Mantras) are employed, and Garbhadhana (the consummation of marriage, in which ceremony the Mantras excepted above are employed), one taking place before and the other after puberty].

Even Ayur Veda, one of the Vedangas, revered as equally authoritative, meditates in clear terms the system of pre-puberty marriage and early consummation, and in this way meets the medical demand, whether such a system can be sanctioned by any school of medicine. Shusruta (Sharira, Ch. 11) and Ashtanga Hridaya (Sharira, Ch. 1) describe a girl who first menstruates. Observing all the rules of purity and ornamentation, mediating on her husband, she on the bathing day should behold him first intent upon getting a goodly son. This sort of a reference clearly advocates pre-puberty marriage and early consummation, i.e., consummation on the first appearance of menses.

Thus Hindu Religion lays down with sufficient definiteness the law of pre-puberty marriage and early post-puberty consummation. The law is also common to the entire Hindu nation, though compulsory on certain responsible castes. *Vide* "The Rationale of Early Marriage" by myself, a copy of which also is herewith enclosed.

As regards penalty, the science of Hindu jurisprudence is peculiar, rather say, far wiser than our present-day notions of it. If the law of pre-puberty marriage and early post-puberty consummation is compulsory only for certain responsible castes, being left to be optional for all others, no universal law of penalty can be levied. If penalty is however thought to be necessary for those classes at any rate where the system is enjoined compulsorily, that penalty cannot partake of the nature of the penalty described in our Indian Penal Code. Certain offences can be booked in public courts, including lying. Certain others cannot be so controlled. For example, if the husband and the wife violate certain laws by mutual co-operation, if youths commit self-pollution, if the married pair, by mutual consent and by social sanction, indulge in sexual coitus, if one harbours schemes of sin mentally, such cases can never be exposed and dragged to courts of justice. In fact, man commits more crimes than can be cognised in a court of law. What is the use of having sections then in the Indian Penal Code, where they have to lie like dead letters? They will do more damage to the honor and dignity of law than anything else, by creating in the minds of men a sort of alighting spirit of ridicule about it, which is truly dangerous to the practical administration of law. So also the history of the Sections 375 and 376 of Indian Penal Code shows its impotence "within the marital state". The ancient sages of India saw this quite clearly, that an inner court of religious conscience ruling at the heart of every man with a code of laws framed by Eternal Wisdom would be indispensable for guiding man on the path of law. The penalties in respect to those "noncognisable" offences, (to use the term in a general sense) instanced above, are put in our books of law in a strange manner. *Vide* my letter quoted above for the texts which lay down penalties for the violation of the law of pre-puberty consummation. Those who do not marry according to the law lose their right to be among the *Vaidikas*; they lose their right for Vedic rites and so forth, besides sinking in Hell. I honestly believe that those who have faith in the after-death life and therefore some religion to follow, those faithful Hindus can never go uninfluenced by such pronouncements of penalty. Nothing more can be done.

8. Garbhadhana is consummation sanctified and therefore ought to coincide with it. No act is permitted unless sanctified by Veda Mantras. It must be performed within the first fortnight after the first menses. It is never done before puberty. "How soon after it?"—Within the first fortnight of the first menses. If it can be postponed, it can be on grounds of peculiar sickness or of certain "doshas" (faults) discoverable in the horoscope taken of the hour of maturity, in which cases "shantis" (acts of propitiation) are prescribed at the time of consummation. Otherwise Garbhadhana is unpostponable and compulsory according to Hindu religion; and it must be early after puberty.

Garbhadhana is observed in my part of the country from times out of mind. Its antiquity dates from pre-historic days, being enjoined in our religious works down to Puranas.

9. I consider that "the attainment of puberty" is a "sufficient indication to justify consummation of marriage". Because biology explains that the sexual system matures only after the comparative completeness of the vegetative growth. The ovaries become active only when the sexual system is complete (c.f., Herbert Spencer, Geddes, Thompson, etc.). Maturity in a girl's life is the only safe declaration of her maternal fitness. For, though "ovulation does not always coincide with menstruation, menstruation always depends upon ovulation.....When the ovaries are imperfectly developed, menstruation does not take place. When they are removed, menstruation stops" (Gynecology by Herman and Maxwell). "The first menstruation is the usual sign that the girl has become capable of conception and child-bearing" —(Gallabin's Midwifery, page 45. See also "The Science and Practice of Midwifery, page 72, by W. S. Playfair, M.D., L.L.D.")

Of course in certain conditions of civilised corruption, peculiar cases of girls occur who are sexually precocious even before their bodies grow fit. But in such cases child-bearing is rendered impossible by Nature, though intercourse might be advised on moral and other grounds. Child-birth depends upon the conjoint effect of impregnation, conception and gestation. The first may take place, while the latter two will not occur, because of the inefficiency of the system. Even the first two may occur, while the last may not take place. The ensuing menstrual flow will wash out all the unsuccessful ova. If there are children in question, they declare the fitness of the maternal apparatus. If they are weak or deformed or their birth is unnatural, there are other real causes for such unhappy results. (See Havelock Ellis's Psychology of Sex, Vol. 6).

10. No definite age can be fixed with regard to "a due realisation of consequences". It is unnatural to expect it in any girl before her sexual vigor begins to decline. Westerners have often pointed out that correct realisation comes (if it does) after half of her real life is lived off. The right sort of social environment and parental control which that environment helps to maintain are among the chief factors that can fix marriages properly. The responsibility of families is more advised by elders than left to inexperienced and curious minds of married youths. If marriage should wait till the girl can be proved to have got "a due realisation of consequences", the best part of her life must be spent away either in empty maidenhood or in covert corruption and crime. Puberty is therefore the only point that must be taken into consideration. All girls attaining puberty can give consent to cohabitation. The responsibility and realisation of consequences reasonably rests with the elders of families and with society in general. The vision of the youths is always clouded by the strong, aggressive impulse of sex, needing guidance and control at the hands of elders.

11. During my experience I have not come across a single clear case in which "cohabitation after puberty resulted in injury to her health or body or prejudicially affected her progeny" on the ground of her body being still undeveloped, so as to eliminate other causes entirely. "Cohabitation before puberty" is too rare to need any special reference here.

12. Early post-puberty consummation and early maternity are not necessarily concomitant. *Vide* Ans. 9. Careful observation and statistics show that "the fecundity is greatest in women married (consummated) between the ages of 20 and 24. Of women married before this age, the earlier they are married, the greater the prospect of sterility (*i.e.*, less the number of progeny they yield). Of those married after this age, the latter they marry, the more likely are they to be sterile".—(Quoted from *Gynecology* by Herman and Maxwell, page 400).

Early consummation therefore cannot be shown to be "responsible for the high maternal mortality". Miss Margaret Balfour of Bombay has cited facts to prove that the average age of first maternity is 19 in India and maternity before 15 is practically nil. The work above quoted has maternity tables on pages 399 and 400, which can show that high maternal mortality cannot be attributed to early consummation, but rather to consummation long after puberty; for the chances of maternity are very limited under the system of early post-puberty consummation, which again is very desirable from the economic point of view, far more moral than the cunning methods of Neo-Malthusians. The table:—

Age at marriage.	16.	17.	18.	19.	20-24.	25-29
	12.9	20	46.4	57.8	90.5	75.8
Percentage of wives bearing children within two years of marriage.	Consolidated from the two tables given by the authors in the work quoted.					

Much less can it (early consummation) be held "responsible for infantile mortality". For in the most early married communities, infantile mortality is lowest. If any inference can therefore be made impartially from statistics, one may rather attempt to show that the system of pre-puberty marriage and early post-puberty consummation is one of the important causes of the health and longevity of the people especially in civilised society. In fact, if evidences can be collated from the records of criminology, of sexual excesses and of debauchery, disease and excesses can be a very great extent prevented by the system, now sought to be destroyed by one sweeping measure of legislation, rather than by its substitute or substitutes now proposed by the various Bills. Hence the cause of people's health and longevity is rather protected than otherwise affected by early consummation after puberty.

Even so, the system may aid the intellectual progress of the people by keeping them within moral limits of self-sufficiency, self-respect and a sort of domestic affection and faith, and by preventing them from sexual restlessness and wasting expeditions. Hence very great persons have been the products of this system. *Vide* "The Rationale of Early Marriage" for elaborate arguments and authority for the study of this question.

13. There has been no further development of public opinion at all in favour of an extension of the Age of Consent in marital or extra-marital cases, since the amendment of 1925. If there is any, it is certainly confined to the microscopic minority of the so-called social reformers.

14. In India womanhood is principally indoor. More than 90 per cent. of Hindu women are still uninfluenced by the modern methods of democratic representation. The few ladies' meetings which interested social reformers are able to convene consist of ladies (not even 1 per cent.) who have strayed out of the ancient Indian manner of feminine ideal of conduct and who are not therefore free from criticism by their sister folk. Nothing can be a more deplorable blunder than to take the resolutions of the few ladies' meetings as an index to the views and feelings of the majority of women in India. It is very difficult therefore to gather the opinion of the majority of Indian women because of the psychology of Indian women explained above.

Still if a fair answer to the question is sought, it may be said, as far as our experience of 15 years of travel and company of friends and families is concerned, that women generally with very exceptions are very anxious to consummate the marriage of their daughters as early as possible after they attain puberty. For reasons vide Ans. 2, 3, 4, 9 and 10.

15. The difficulty in determining the age of a girl in cases under sections 875 and 876 as well as under 369 of Indian Penal Code is really considerable and perhaps interminable. No doctor can give it exactly. No two doctors ever gave the same opinion about it. Without a margin of a year or six months, it seems quite impossible to determine it. If the attainment of puberty can be made the Age of Consent, all these difficulties will at once disappear. For here medical science can make definite statements. Also there is a great facility of sifting sufficient evidences to determine it exactly.

16. The difficulty in determining the age will never be reduced, even if the Age of Consent is raised to 14. In view of the facts mentioned in Ans. 15, it is foolish to think that it can be determined sufficiently to the requirement of the laws.

17. If puberty is made to mark the Age of Consent, there can be no need at all for separating "extra-marital and marital offences into different offences".

18. And also there will be no need for making "a difference in the procedure of trials for offences within and without the marital state".

19. And again it will be a sufficient safeguard "against collusion to protect the offender or against improper prosecution or extortion".

20. Neither "penal legislation fixing a higher Age of Consent" nor "legislation fixing the minimum age of marriage" is desirable in view of the details of the above paragraphs. Both the alternatives are opposed to the real interest of human progress. Moreover people always think that their religious regulations are sufficient safeguards, which enjoin :—

- (1) Pre-puberty marriage (compulsory on higher castes).
- (2) Early post-puberty consummation.

21. I am by conviction against any codification of penal laws in matters of social and socio-religious importance.

"In the course of the evolution of the Hindu idea of marriage, the kind favoured by the West founded by the mutual attraction, was given a trial. It was found wanting and discarded. Is it possible that we shall at a future date (also) discard it,"—Rev. J. T. Davis. "Whatever we English people may be able to teach them in mechanical arts and in experimental science, we have very little, if anything, to teach them in matters of social philosophy."—(Frederic Pincott). Therefore neither legislation to enforce misconceived social reforms nor otherwise aggressive social reform propaganda outside the legislative chambers, but some propaganda to preach and popularise the ancient ideals of Hindu society and home to the entire world, which now needs them most, with of course a side work to restore the Hindus to their original purity of social and domestic harmony, purging them of the dross acquired of late by contact with strange civilisations of the West and the near West, THIS will be the most useful work both for India and for the world.

Thus Sir, my answers have been brought to a close. They are necessarily to be short. If justice and common sense require a free debate on the various points, I must enter here in all fairness of truth-seeking and truth-propagation that I should like to convince the last man of your learned Assembly, provided the *sometimes* unnecessary convention (as now) of your Assembly can be broken as an exceptional measure to let in a stranger, but as much a lover of truth and of people as any one there, to take part in the discussions.

Letter, dated the 19th May 1928, from Mr. U. P. KRISHNAMACHARYA of Benares, 162, China Bazar Road, Madras, G. T., to His Excellency the Governor of Madras, Madras.

In respect to the letter dated the 1st May 1928 of Mr. E. F. Thomas, Collector of Madras, I request Your Excellency's indulgence in recording my humbles but (as far as I know) correct opinion about Mr. Sarda's *Child Marriage Bill*, now pending in the Imperial Legislative Assembly.

The study of the said Bill may be divided into four aspects, which may be elaborately pursued in my work. "*The Rationale of Early Marriage*", being an appeal to the Government and the members of the Assembly, and a copy of which I am enclosing here hoping that Your Excellency may find some time to go through it and honour me with a word of review.

Legal.—Among the principles implied in the bedrock of Hindu Law, there is one of *usage, custom, and tradition*. The Bill is evidently opposed to them. I leave any further say about this aspect of the question to more capable lawyers, but with an assurance that this basic principle which the Bill opposes cannot be gainsaid.

Social.—Even the pretensions of the usefulness and the reasonableness of the Bill are faulty. By child marriage I do not refer to marriages before eight years: they are not enjoined in the recorded laws of the country; and as such, they may be avoided, though even here I hold that the avoidance may be sought more desirably by public education than by force and legislation. Marriage between 8 and 14 is alone the thing which I insist upon defending. The time limit denoted by this period is of course indefinite. A more correct form of expressing my opinion would be to say that marriage is desirable reasonably long before the maturity of the girl. It is necessary to bear in mind that *by this system, the consummation of marriage, for which the term, "marriage", is often confused, is invariably postponed till fitness is actually reached by the parties*. This is what is in *usage* in this country since time immemorial. In a climate like that of India, scientists have concluded, it is natural that a girl attains maturity between 12 and 14. Then the system requires a marriage to be fixed before 12 necessarily. It is also worth considering that over and above climatic conditions, certain domestic peculiarities might hasten the maturity still earlier, so that the marriageable time of the girl might be decided in each individual case by parents and others, who are expected naturally to be far more interested in the welfare of homes than distant councils and stranger members, and who are also as well educated as they are, if not more.

The marriage of a girl before puberty is the great landmark in the management of social economy in India, as it once was also in the West. Please *vide* my book quoted above. Brahmans and millions of Vaishyas (trading castes) are anxious to settle their daughters with proper protectors (or husbands) before their maturity—and thus no girl remains without marriage, after this point is reached, which is from the social point of view a great blessing. There are of course innumerable other castes also, including Kshatriyas, who follow them. Though it is not denied by me that a overwhelming number of Hindu classes are celebrating marriages also after puberty, it is not to be forgotten that among them pre-puberty marriages are honoured and followed; and even their post-puberty marriages are but approximations to the grand Ideal of Early Marriage. That is, among them the principle is, not to make marriage as late as possible, as they do in the West, but to canvass it as early as possible. If in such a home a girl attains maturity without marriage, the parents there do not find peaceful sleep until the daughter is settled suitably.

The social advantages of this system of early marriage, kept alive by the ideal of pre-puberty system of marriage, are very many. I hold that the many evils, which the savans of the West are pointing out being attributable to "*late marriage*" and "*no marriage*" notions and which Indian social reformers (including Assembly members) are *ignor-*

ally attributing to the system of early marriage, are at once rendered impossible under the Indian system. This opinion of mine has been supported by many impartial European scholars, quoted in my book enclosed here. It is remarkable how, even in the West, great professors are beginning to recommend a reduction of the marriageable age, sometimes even reminding the people how in ancient times among the Greeks and the Romans and even latterly among the races like the English in the 16th century, marriages were managed *early* under the patronising command of wise and experienced parents.

Hence to safeguard the society and home from the inroads of corruption and disease, sin and crime, the present system of marriage alone is desirable; and the Bill is manifestly the result of immature thinking and insufficient study.

Political.—This is an interesting and vitally important aspect of the question. I do not mean only to lay stress on the fact that a decidedly large majority of the people of India feel that the Government will be trampling upon their common rights, if for any cause they should lend support to the Bill. Nor do I wish to point out the truth that the opinion of the Government that the so-called leaders and members of the Assembly and Councils are real representatives of the masses in religious and social matters is but an empty illusion, as well as the claims of the policy-piloted news-papers and certain well-managed public meetings. Their leading even in politics, of which the masses do not understand even a small *percentage*, is far from truth and justice. For certain, these are plain facts, which I have substantiated in several places of my literature, and which I shall be able to prove again whenever I shall be required by Your Excellency; and these facts have indeed something to do with the interests of the Empire in course of time, if not immediately.

But here I wish to bring forward another more serious fact than they are. I am not an absolute believer in Democracy. Being a student of history, I am able to connect the demolition of the monarchical institutions of Europe *also* with a sort of "never-to-yeild" spirit. Call it "individualistic freedom". Along with that noble term, we find in practical life and society the spirit of individualistic disobedience and impertinent dissension. Among the several causes that prepare the spirit of disintegration, domestic leniency, instead of discipline, parental indulgence, instead of inspiring influence and control and "let free" marriages are an important cause, being always linked together. The youths, who demand "let free" marriages, as if their parents could not look to their welfare by properly settling them, are more dangerous to the society and the state than those who have under appropriate home and other influences learned to abide by the arrangements of their parents, who loved and grew them so dearly and therefore could really look to the prospects of their sons and daughters far better than these young people's own curious minds more filled by the giddy pleasures of sex than by serious thoughts of life here and hereafter. Even a bit of eugenics will help us to understand that such frivolous and fashionable youths as would demand "let free" alliances could only produce riffraffs and uncontrollable rowdy psychology. A State must consider such like them to be in the foremost rank of its enemies. I firmly and honestly believe that the Hindu Law of Marriage, which sanctions and even enjoins pre-puberty marriages, is intended solely to produce good and law-abiding citizens who will support rather than destroy an empire. And the present Bill that seeks to break the sacred bond of this Law must be construed as an ultimate cause for the downfall of the present Imperial Rule in India within a calculable future. Under all pretences of democracy, an intolerable spirit of unmanageable, individualistic, pleasure-seeking restlessness and revolutionary rowdyism would be engendered and grown by such acts as the "let free" policy, upon which "late marriages" are based; and (obedience and reverence to ideals of purity being nowhere) the country will be steeped into anarchy, bloodshed, rapine and roguery and the Imperialism will totter down shaken to its very foundations. For, people who are not disciplined and purified in respect to sex and hunger are sure to breed a

race of ungodly and unruly population. How can such "unbounded" refractory population aid even the cause of Swaraj!

Religious.—The Queen's Proclamation is the bed-rock of the British policy in India. The principal feature of it is the great pledge of Religious Neutrality; and it is rightly thought to secure the permanency of the British Empire in India. It cannot be denied that it is an important principle among a few that can support the policy. Some Emperors of the pre-British epoch of Indian history (notably Akber the Great) understood this secret of imperial strength and even extended it into an active policy of supporting the important religions of the people in various ways.

In India marriage is a religious institution primarily, having nothing to do with the modern notions of it civil or private. It is in fact religiously more significant and obligatory as a Samskara among the Hindus (i.e., a religious act, fit to make a man or a woman spiritual and divine through service and self-control) than it is as a sacrament among the Christians. According to Hindu scriptures marriage is also indispensable for woman; without discharging the duties pertaining to marriage and family, she can never become fit even for Salvation. While for man direct entry into Sanyasa (the life of a recluse) from Brahmacharya (unmarried state of pupilage) is sometimes sanctioned by the Hindu scriptures, a woman has no right to adopt Sanyasa life even after she brings forth a good family; only a sort of that discipline is recommended to her and that is called widowhood, if she chances to survive her husband; and for aught it should not be confused with Sanyasa ordeal.

Therefore "The Child Marriage Bill" is certainly a flagrant violation of the religious principle of marriage as recognised in the sacred works of the Hindus (called Dharma Shastras). That is why the Bill is a thing which every right-minded Hindu resents and the Government will have to be considered as violating their own pledge of Religious Neutrality.

For Your Excellency's information I am gathering together here the sacred texts of the Hindus from various sources in support of the view of marriage which I am defending now and which the Bill seeks to destroy by one ugly stroke of penalising it, because certain political and social reformers do not like it. In this thesaurus my claim is that the texts are interpreted true to the contexts in which they appear in the original works and true to the customary views held by the orthodox teachers among the Hindus for over several centuries unlike the supporters of the Bill, who are reformers and sometimes quote Hindu religious texts, but quote them to suit their own purpose, without caring tradition or contexts.

Manu.—A gist of the view of Manu, the first among the lawgivers according to Hindus, is given in my work quoted in this statement of mine and enclosed herewith.

Yajñawalkya.—(A qualified person) not giving away (in marriage) a maiden shall be visited by the sin of destroying a fetus every time she menstruates (during her unmarried state.) Chapter I, Verse 64.

Yama.—The father, who gives away his maiden daughter (in marriage) after she attains the twelfth year, drinks (i.e., falls into the sin of drinking) her menstrual blood, month after month. By beholding a maiden in (her) menses, her mother, her father and her eldest brother, these three go to hell. If any Brahman (or one of any other caste), under the influence of lust, marries such a maiden, that Vipra, the husband of Vrishali, should not be spoken to; nor (should he be) admitted into a row (an arrangement in rows for the purpose of meal-taking) (along with other Brahmans or caste-men at a dinner). Verses 22, 23, and 24.

Vyasa.—The daughter of an erudite father of good conduct having sons of his own line, of a family free from all blemishes, contagious or hereditary diseases, not promised for money to any other bridegroom already, not related to him on his father's or mother's line (as a 'sapinda'), but belonging to his own 'varna' (caste) and to a different 'pravara' and 'gotra' (an ancient line of ancestral descent different from 'sapinda' conception which refers only to parental but near relations of a few removes), different from his

own, slender (but not weak), of auspicious signs, clothed in garments of silk, not above eight years of age, and whose ancestors to the tenth degree were all men of renown, should be solemnly wedded by a (twice-born, Brahman, Kshatriya or Vaishya) according to religious rites, if given in marriage.

The sin of destroying the fetus is committed, if by neglect of duty by her (rightful) giver, a girl menstruates before her marriage. He, who does not give away (his) daughter in marriage before she attains her puberty, becomes degraded. Chapter II, Verses 2, 8, 4 and 7.

Parasara.—The father, the mother and the eldest brother, these three of a girl, who menstruates before her marriage, sink in Hell by seeing her thus in her menstrual periods. A Brahmana (or any other twice-born), marrying such a girl, tempted by the flesh, should be looked down upon as the husband of a *Vrishali* (a girl who matures without marriage or a girl after 12). He must be shunned in conversation; nor should he be allowed to sit in the same row with other Brahmans at a dinner. Chapter VII, Verses 8 and 9.

Sankha.—In chapter IV, this law-giver of the Hindus describes like *Manu* the eight forms of marriage and says that the first four systems are enjoined upon the Brahmans (though recommendable to other castes also). These four forms primarily consist in the ceremony of gifting a girl to a deserving bridegroom; and the right of gifting her belongs to her parent or guardian only till she attains maturity. Therefore it follows that according to this law-giver also, the system of pre-puberty marriage is alone mediated as the best. This sort of interpretation is accepted by the traditionary systems of exegesis on Hindu law, since with it alone the texts of a majority of other law-givers can be compromised.

Gautama.—He also follows the same law of pre-puberty marriage and adds a clause about the superiority of the above four forms of matrimony.

He says:—"A girl should be given in marriage before she menstruates; and her guardians commit sin, if they do not marry her before that time. According to some authorities, a daughter must be married (even) before she passes the age of girl-hood." Chapter VIII.

Vasishtha.—Fearing the appearance of the menses, the father shall marry his daughter, while she still runs about naked. If she stays (unmarried in her father's house) after she menstruates, sin visits the father. As often as a maiden (unmarried) menstruates, her father and her mother become guilty of killing the embryo: such is the sacred law. Chapter XV.

Vishnu.—Like *Gautama*, he adds a note about the superiority of the first four forms of marriage, which relate to the pre-puberty system. He says:—"A son born in a Brahma form of marriage redeems twenty-one generations (lifts them into divine favour in the after-death state, ten ancestors, ten descendants and the giver). One born in the Daiva form of it saves fourteen (seven above and seven below). One born in the Arsha form of it lifts seven (the giver and three above and three below). And one of the *Prajapatya* system brings fame to four (two above and two below). The giver of the bride in Brahma form goes to the Abode of Brahman; that in the Daiva, to the Abode of the Devas or Gods and angels; that in the Arsha, to the Abode of Vishnu (a great God), and that in the *Prajapatya* to the Abode of the Gods (*Prajapatis*)." Chapter XXIV, Verses 20 to 34.

He says again:—"An unmarried girl, who menstruates, while she still stays in her father's house should be regarded as a degraded woman." Chapter XXIV, Verse 41.

Here are then some of the important texts, which are revered and followed by the majority of the Hindus. They and many more like them constitute the main basis of the Hindu Law administered in courts of justice since times out of mind. The British rule in India has been respecting the same Law in view of the Imperial Policy referred to previously.

The Bill therefore is misconceived not only from the three view-points, Legal, Social and Political, but from the point of view of the sacred works of the Hindus, whom the Bill mainly affects. To make a law of it will be

one of the greatest blunders which a state might commit. Often it is urged that the Hindus will acquiesce in this proposed act, just as they have done in respect to the law forbidding the Sati (the burning of the widows). *This is wrong.* The latter was not a compulsory thing in the religious codes of the Hindus; and as such, the Hindus, always peace-loving in their nature, could acquiesce in such a law easily. But the texts herein quoted clearly show that the matter of early marriage is quite compulsory according to the religion of the Hindus. Therefore if the Bill will find favour with the Government, it will result in a lot of confusion. The Government might have noticed already how in certain meetings and conferences they have unanimously passed resolutions that men should prefer jail to the infringement of their necessary religious rules and the wrath of Gods. I have no doubt that such an act on the part of the Government as it would be to let the Bill pass, will be a serious political blunder.

I pray in conclusion, Your Excellency may be pleased to send your strong protest against the Bill on behalf of the millions under Your Excellency's care and on behalf of the integrity of the state, and see that the Bill is dropped.

Subject: THE HINDU MARRIAGE DISSOLUTION BILL.

MAY IT PLEASE YOUR EXCELLENCY,

In response to the letter of Mr. E. F. Thomas, Collector of Madras (dated the 20th April 1928), I beg leave to bring to Your Excellency's kind notice my humble opinion in the matter of Dr. Gonn's Hindu Marriage Dissolution Bill.

I iterate the same opinion which I expressed in my previous letter to Your Excellency (dated the 19th May 1928) in respect to the Child Marriage Bill. I hold that the society will be landed in chaos and social troubles—just as France is seeing to-day—if the “let-free” policy is to be followed in domestic and other social relations. I may be permitted to refer Your Excellency to page 3 of that letter.

On the one hand, such marriages as this Bill mediates (Re. the three conditions mentioned in the Bill) are bound to be few and far between and therefore cannot affect the communities appreciably either by sanctioning them or by forbidding them. Only, when sanctioning them, the blame will rest on the state that *here again* at the advice or the instigation of a single man, who has evidently little to represent the people of India, especially those belonging to Hindu orthodox schools, himself being a Brahmo, they interfere with their custom and usage. Unless by *direct* memorials (direct, i.e., not in the form of protests simply) coming from the large conservative communities of India, the Government will have no reasonable rights to interfere with their customs and usages. The gentlemen who introduce Bills now-a-days in the Assembly and the Councils (especially those connected with the Child Marriage Bill and the Hindu Marriage Dissolution Bill) are but social reformers and can only represent a drop among the millions of Hindus in India. They do not at all represent the majority of the Hindus in social and religious matters. Seeing that for the last few decades of years their social reform attempts have utterly failed among the conservative majority, they now seek the aid of compulsory legislation and wish to drag the Government (that is vowed to religious neutrality) into this national sin and crime, which they are contriving, innocently though. Hence the inauguration of social and socio-religious bills by such gentlemen cannot be construed by the Government as having will of the nation behind them. If these members had told the people before their “election” that they in the Assembly would do such things like these bills, it is as certain as certain can be, that they could not have secured even a couple of votes in their favour from the conservative communities of India, to create this state for them.

The Bill is therefore unconstitutional in this sense and most uncalled-for.

On the other hand like its sister Bill, this Bill also tends to encourage the "let-free" tendencies in the society, which are destructive of the solidarity of home and nation and dangerous to state and imperial integrity.

India has ever been the land of obedience, law, order and service; though kings may have warred and foreigners devastated and ravaged her homes and fields often, the people mainly, have been living, law-abiding, peaceful and self-sufficient, taking the rule of the state even as God would gift it to them from time to time. This is the practical Wisdom of India. And this is due to the social and other principles which they have been revering from most ancient times, principles which primarily aim to discipline man and woman in matters of sex and other things, thus to make them good citizens.

This principle of discipline, the Bill will evidently destroy. There are many mistakes in marriage to-day even in countries where freedom of choice is given. Though often such mistaken marriages result in dissolution, practically such dissolutions of marriages are with difficulty got and at some sacrifice of respect in public estimation; for, the people there (i.e., in the West) have not been perfectly moulded into the fashion of divorce and in their hearts there is still vibrating the old-world pulse of monogamic ideal of matrimonial purity. So they do not always rush into divorce as we in the East often falsely imagine (howsoever statistics will show figures) but abide by the life which their first marriage brings to them, with sufficient patience and self-sacrifice. In India, probably because of our institutions, this patience, endurance and self-denial is seen to a far greater extent than in the West, where facilities are greater than here for all sorts of individual assertion. The wives of the few, whom the Bill covers, (themselves a few) are among the instances of marital blunders, and they generally abide by their fate, or have to, in India, in respect to the general tone of the society, which ought to be discipline and self-control. In one respect, their position is similar to that of the widows of this country; and their remarriage is forbidden on principles like the one hitherto explained.

Again there is great truth in saying that the avoidance of blunders consists in the necessity of suffering them. The more we make it a condition that we must suffer the consequences of our acts, the more we are led to think, judge and prefer to avoid blunders. Now very rarely, (if at all) parents give daughters in marriage to the impotent, imbeciles and lepers. If the Bill should pass and become generally followed, people may be more emboldened to commit these blunders deliberately to secure certain advantages like wealth and property than they would be under the regime of the inviolability or indissolubility of marriage; because this blunder of a marriage can be made good soon by a divorce!

It may of course be reasonable that in the interest of state and good posterity the parents, who may sometimes (such are indeed a few) offer their daughters deliberately to men, forbidden to marry on account of the three defects mentioned in the Bill, be checked so as to prevent such alliances from arising, rather than talk of remarriages in such cases. If the state would make any such provision, it may not go against the Hindu sacred works of law or against the feelings of the Hindus. That some such thing was the object of the ancient lawgivers will be plain by noting many small regulations, which Hindus have been concerning themselves with. For instance, their sacred laws lay down sufficiently that the bridegroom ought to be well chosen and that he should be examined by a barber who belongs to the party of the bride. So forth. The laws moreover pronounce curses on all those persons who are instrumental in bringing about a marriage between an impotent or any other undeserving man and a bride. But however if a marriage is celebrated with "mantras" *innocently* or if after the marriage the bridegroom becomes impotent or imbecile or incurably diseased, the marriage is not dissoluble according to the Hindu "shastras" (sacred laws). Only, in such a case sexual intercourse is forbidden by them to prevent the possibility of continuing defects in the possession of the race. The woman, if she is religious and law-abiding, may refuse to cohabit with him and lead a

separate or single life, doing "pati-seva" (service) to him in all ways other than sexual coitus.

While logic and commonsense in the light of the facts of life decide against the Bill, the sacred codes of the Hindus—which are but crystalized expressions of the wisdom of ages—confirm the same view. The texts which Dr. Gour quotes are not only torn from their contexts but do not contain much to sanction the remarriage of a woman who could divorce her husband because of impotency, imbecility and incurable diseases.

It is of course difficult to understand the Hindu works on law, without reading through them from first to last several times. Piecemeal study and haphazard quotations, such as Dr. Gour makes, are always misleading. It will be useful for such like him to remember that the ancient exegetical teachers were far more efficient and complete in this task of interpreting laws than our modern "patch-up" products.

The place, for example, from where Dr. Gour quotes Vashishtha in his support is not concerned with the problem of marriage. The context is different, one concerned with the question of inheritance, of heirs or the several kinds of sons becoming heirs.

Dr. Gour's quotation: "and she is called remarried who leaving an impotent, outcaste, or mad husband takes another lord." (Chapter XV of Vashishtha).

The preface in the context for this piece is, "twelve kinds of sons only are recognised by the ancients". (Ibid). Lower down as concluding after describing the first six kinds of sons, the text goes, "The learned declare that these all (i.e., six) are heirs and kinsmen and preserves from great danger". Lower still, the Original has, "these (the last mentioned six sons) shall inherit the property of him, who has no heir belonging to the first mentioned (six classes)". (Ibid.)

Among the twelve, mention is made of the son born of a maiden who is married, while being pregnant, i.e., a maiden marrying while just pregnant by illicit intercourse with somebody yields a son. Also a son born during the maidenhood a girl, i.e., before her marriage is mentioned. From these premises, will any wise legislator be justified in recommending other bills of marriage, that a maiden, if she chuses, may lead a free life allying herself with any and every one as she likes, or that one should marry a maiden as pregnant? How absurd! If for the purpose of law, it is necessary to distinguish degrees of inheritance, it is absurd to form rules of marriage from these premises alone.

Even the particular text on which Dr. Gour depends does not support sufficiently his conception of remarriage. For, by remarrying one naturally understands a resettlement in married life with all the privileges of marriage and rights of conjugal happiness. But the lawgiver whom our doctor quotes explains what he means by "Punarbhū" (remarried). A few lines down in the same Chapter we find the following:

"The widow of a eunuch or mad or diseased, shall sleep on the ground for six months, practising religious virtues and abstaining from taking pungent food and salt. Having bathed after six months, she shall offer the 'Śrāddha' (an after-death ceremony) to her husband. Then her father or her brother shall assemble his (i.e., deceased person's) preceptors.....and shall appoint her (to raise a son for her deceased husband). One shall not appoint a woman, insane, passionate, diseased or aged....."

"(The male appointed) shall approach (the widow) in the 'muhūrta' (hour) sacred to prajāpati, like a husband, without dallying with her....A woman, woman, insane, passionate, diseased or aged....."

Therefore this is no marriage having rights of conjugal pleasure, but a deliberate, dispassionate and pious sacrifice with a view to raise a male offspring for the deceased husband—a "vrata" (religious act) which only a few can have the fitness to attempt. For, even a slight movement of sex selfishness and passion on the part of either the male who approaches her or

herself who receives him by the elders' appointment makes them at once unfit for the holy function. Penances are enjoined in case of failure in respect to this condition. Also it is worth noting that after the birth of a son this relation by appointment ceases.

A few more quotations will be worthwhile for a comparative study and fair judgment.

Yajñavalkya, Chapter 1, Verses 67 to 69. *She, who having left her husband seeks one of her own caste out of lust, is called 'Svairini' (an unchaste woman). A younger brother (of a woman's husband), (in his absence), a 'Sapinda' (in his absence) a 'Sagotra' (one of the same paternal family), for begetting a son, can, with the permission of her elders, having his body rubbed with clarified butter, know a woman, who has not given birth to a son, in her season, one after another till she conceives. Otherwise, (i.e., if he knows her at any other time), he will be condemned'. Likewise Manu also enjoins.*

Parasara, Chapter IV, Verses 26 to 29. *"A (married) woman may take a second husband under any of five following exigencies, viz., if her first husband long remains unheard of, or dies, or takes to asceticism, or loses his virile power, or becomes a degraded person. (But) a widow who betakes to Brahmacharyam (unmarried or maiden state) after the demise of her husband goes to heaven after death, like brahmacharins (persons who observe 'brahmacharya' practices). A widow, who immolates herself on the same funeral pyre with her deceased husband resides in heaven for ten million years. As a snake-charmer forcibly draws the snake from its hole, so does a wife, who follows her lord in death, lift up his benighted soul from the abyss of hell and enjoys the felicity of his company in heaven.*

Vishnu, Chapter, XV, *"The second is the son of the soil (wife), one begotten on her by an appointed kinsman, or by a member of a higher caste".*

About "Punarbhū", a term used in these connections, the following are the important authoritative explanations:

Yajñavalkya: *A virgin (maiden) or one who has been known by a man, when purified again after performing purificatory rites, is called 'Punarbhū' (born again). The next line shows that this refers to the ceremony described by Vashistha; for it asserts that if a woman seeks one of her own out of lust, she becomes a degraded woman and is called 'Svairini'.*

Vishnu, Chapter XV. *She, who being a virgin is allied a second time, is called a 'Punarbhū'. She too is called 'Punarbhū' who, though not legally married more than once, has lived with another (before her marriage).*

From the above quotations, it will be clear to Your Excellency that such permissions as Dr. Gour refers to for his support are only for the sake of legal difficulties of inheritance and do not proclaim the high principles of marriage, which the Hindu religious works are intended to place before humanity. The Hindu sacred works, even as they are dealing with temporal affairs, are primarily intended to make man and woman spiritual through discipline and self-control in all earth-life. So Monogamy, Early Marriage, Primogeniture, Marriage within the same caste, Widowhood and a few more are always praised by them. It is understood that by such discipline not only the parties that marry get facilities for spiritual evolution, but while as the result of discipline they become good and law-abiding citizens, their progeny also inherit virtues good for the race and the individuals. So also Christianity taught in the previous centuries, when Europe was more self-controlled and morally high principled, that the Bible praised the institution of widowhood and also the ideal of pure monogamy.

But the discipline is hard; and violations are inevitable always in such divine schemes. Then for the maintenance of order and goodness in the society, laws will require to legislate about the progeny resulting from such violations as well as about the violations themselves, so that there may be least harmful and somewhat useful sometimes to the welfare of mankind. Hence such references in the sacred works of the Hindus as the 12 kinds of sons having different rights of inheritance and so forth

With reference to permissions described above, the wise sages thought and laid down that that practice, requiring a great deal of self-control and discipline, will not be applicable to the present age, which is characterised by uncontrollable passion, prejudice, sin, crime and corruption—even as Western writers like A. R. Wallace and Ed. Carpenter point out about modern times, how morally worse off they are than the preceding centuries. When already in spite of unsparring criticism, appeal and exhortation to keep on to the high ideal of sense-control and sacrifice the animal passions of lust, anger and greed burst out into doleful expression and crime, how can permissive laws of sexual leniency and freedom help a prospering race? Hence the Hindu religious codes forbid even the little grants which they had given to the people of the past and better ages.

Therefore from the point of view of Hindu sacred texts and with regard to the spirit of Hinduism, I hold that the Bill is misconceived and based upon a contorted view of the sacred books. It is constitutionally unjust, politically unwise, socially a blunder, religiously unspiritual and textually untenable.

In conclusion, I pray, Your Excellency may be pleased to advise the Imperial Government most strongly against such Bills as Dr. Gour's, as are surely calculated to affect the religion of the Hindus and their feelings, such Bills as are introduced by persons who do not by faith or sympathy belong to the orthodox and conservative schools of Hinduism in which the large majority of the Hindu population live and have their hopes for prosperity here and hereafter. It is indeed unwise for a neutral state—as an alien Government in India ought to be from the point of view of imperial policy—to become an aid to a disenter school that is naturally opposed to the majority, who are conservative and averse to any change quite reasonably.

To

THE RIGHT HON'BLE SIR JOHN ALLSEBROOK SIMON,

Kt., K.C., K.C.N.C., O.B.E., P.C.,

Chairman, Indian Statutory Commission,

Camp, Delhi, India.

(Sent on behalf of "The Madras District Sanatana Dharma Sabha").

Sir,

The Executive Committee of the above Sabha have directed me to send you the following representation on behalf of the numerous conservative public of the District of Madras.

1. The Madras District Sanatana Dharma Sabha is a conservative association representing the large majority of the Hindus of the District in religious and socio-religious matters and doing oral and printed propaganda work.

2. Religious freedom and non-interference in religious and social affairs have ever been the declared policy of the British Rule in India; and this wise policy, which is the bedrock of the British imperial permanency here, has had its most august standard in the Memorable Proclamation of Her Gracious Majesty, Queen Victoria, the Good, the Empress of India.

3. Since the Reform Scheme was introduced in India, members who have no faith in Hindu traditional religion and are bent upon social reform by legislative measures have been busying themselves in introducing Bills affecting the religious and social usages of the Hindus.

4. And unfortunately for the religion of the majority of Hindus, Section 67 (2) of the Government of India Act (1919) is not giving any sort of protection to the people and their religion and social concern: for, members are allowed to bring forward the same Bill over and over again, till they achieve their end.

5. Nor are the members of the Assembly and the Provincial Councils returned on any religious and social basis; and therefore in no sense whatever they are the representatives of the Hindu Population in religious and social matters.

6. The true leaders in these matters, who are the conservative Pundits, and Purohitas (conversant with the sacred works of the Hindus) and the heads of religious institutions like Mutts, Sannadhis and Temples, (who command universal respect) are never consulted beforehand with regard to the propriety of the Bills affecting the religious usages of the people of India.

7. It is a matter of grave concern that the usages of the people are allowed to be changed by the votes of men who have no faith (or lost it) in the orthodox doctrines of the Hindus.

8. Representations were made by the Hindus to the Reform Enquiry Committee of 1924 presided over by the Hon'ble Sir Alexander Muddiman, Kt., C.S.I., C.I.E.; and reference is solicited to the suggestion in the Majority Report on pages 90-100.

9. At present there are three Bills as if to illustrate the ideas herein submitted: (1) Bill No. 21 of 1927 which makes marriages of girls and boys below 14 and 18 penal, flatly ignoring the fact that in India marriage is a different thing from the ceremony of consummation, which invariably occurs after the parties are declared fit by Nature; (2) Bill No. 18 of 1928 for the dissolution of Hindu Marriages: Bill No. 32 of 1927, which forbids sexual intercourse with one's own wife between 13 and 14, even though she may have attained puberty.

10. These Bills and such like them violate the well recognised principles of Hindu Law and they are bound to raise unpleasant feelings among the vast majority of the Hindu people.

11. It is therefore urgently required that the power of legislation affecting religious rites and customs of the people should be set on a restricted basis so that no measures which would affect the religious usages and customs of the people might be allowed to be introduced, unless they are advanced by a substantial majority of the true leaders of the people in religious affairs referred to in paragraph 6 here.

12. The suggestions of the Reform Committee of 1924 on pages 90-100 made in accordance with the views of Mr. Jogendra Nath Mukherji should be made the basis for giving sufficient protection to the people in the observance of the religious customs and for disallowing all vexatious measures which cause wide-spread discontent in the land.

13. It is absolutely necessary to alter the law regarding the introduction of measures which affect the religious belief of the people and to adhere to the policy of non-interference in religious and socio-religious matters.

14. For fuller particulars about the Bills referred to in paragraph 9, the following enclosures are herein contained:

- (a) A letter to His Excellency the Governor of Madras about Bill No. 21 (1927).
- (b) A letter to His Excellency again, regarding Bill No. 18 (1928).
- (c) A copy of "The Rationale of Early Marriage".
- (d) A copy of Our Religion and Our Duty.
- (e) A copy of An Appeal to the thoughtful.
- (f) A copy of A Sample Sanatanist.

15. In conclusion the Committee prays that you may be pleased to do the best in your power to carry out the suggestions submitted in this memorial and that when you visit these parts some opportunity be raised for us to ventilate our views, if you deem it proper. We also pray that, the notification that all memorials should reach you within the first week of June being insufficient, you may be pleased to grant permission for sending such memorials during a month more.

Oral Evidence of Mr. U. P. KRISHNAMACHARYA of Benares.

(Madras, 22nd November 1928.)

Chairman: Are you from Benares?

A. Benares is my professional centre.

Q. What is your profession?

A. My profession is to publish books on religious and social subjects and to go about lecturing wherever I am invited.

Q. Have you published any books on the questions of marriage, pre-puberty marriage and so on?

A. I published two years ago a book called "The Philosophy of Marriage"; later on I published a summary form of it; again I published a book in answer to some objections raised against the orthodox party; and during the recent days in connection with these bills about marriage I published a book called "The Rationale of Early Marriage, and lastly I published a small pamphlet containing the principal arguments in these books in Tamil. A few weeks back just to respond to one of my friend's celebrating his daughters marriage, I presented as a wedding gift a book called "The Marriage Sacrament".

Q. Do these books bear on these questions?

A. Excepting the Philosophy of Marriage and its pamphlet form, all the other books have a direct bearing on the subject.

(Witness promises to send all these books.)

Q. You think that the Hindu religion lays down authority for pre-puberty marriages and early consummation of marriages.

A. That is the whole summary of my position.

Q. Could you give us a summary of the texts for pre-puberty marriages? Also could you give us any texts bearing on the time of garbhadan?

A. I shall send you these texts.

Q. Do you consider that these texts are mandatory or only recommendatory.

A. The texts in regard to garbhadan are mandatory and the texts that I send you will cover everything.

Q. What do you mean by early post-puberty consummation of marriage? Do you mean within 16 days of the first menses?

A. Yes.

Q. Do the texts that enjoin the girl's age for pre-puberty marriage also lay down the age of the boys?

A. These texts don't. But there are texts which do not come under this clause but which try to adjust the age of the boy with the age of the girl. They mean that the age of the girl might be one-third, or half of the age of the boy.

Q. But where is he to begin?

A. They don't begin at less than 24. They put the girl as the unit of calculation and when she passes the 7th year she becomes fit for marriage sacrament but not for garbhadan.

Q. With whom does she become fit for marriage?

A. She becomes fit for marriage with a boy either of 24 that is 8×3 or of 16 that is 8×2 .

Q. Have you texts for these?

A. Yes.

Q. So a boy below 16 cannot be married. Is that what you say?

A. Yes: I have a text for a boy of 16.

Q. Is there a text further that a man of 30 should marry a girl of 12?

A. There is.

Q. Is there a text for a man of 32 marrying a girl of 16?

A. We are talking of the Brahma form.

Q. In what form is it allowed?

A. It is permitted in *paśach* and *gandarta*.

Q. Do you know of any puranic authority laying down these figures 24—8; 80—12 and 82—16?

A. There is no puranic authority. The puranic authorities are illustrating only the first four systems of marriage?

Q. What are your reasons for saying that these are real marriages?

A. Because the text say that if the father or the mother fails to celebrate the marriage at such and such an age of their daughter, they sink into hell and also further say that if the girl is not married at the proper age—which is the stipulated age—the girl loses her rights to certain vedic performances so far. For instance the girl that marries after puberty loses certain rights.

Q. What rights does she lose?

A. For instance she cannot partake or take up her share in the performance of a Yagya. For *shraddha* she becomes unfit.

Q. Is there a provision in the *smritis* to the effect that if a girl passes her puberty and is not married by the father she can wait for three years and then marry herself?

A. That is in *Manu*, but she is called a *vrishali* and she loses certain privileges.

Q. Supposing the father does not in fact marry his girl for three years after puberty, has she not the right to give herself away?

A. That I admit.

Q. Don't you think that in that case no sin attaches?

A. It is not so. She as a *vrishali* loses her rights.

Q. Is there no text which says that the man who accepts her is not a sinner?

A. There is no such text. It does attach a sin because he is not authorised to sit with us in dining and on other occasions also.

Q. Is there any *prayaschitta* laid down for the girl having attained puberty before marriage?

A. There is no *prayaschitta* for these cases. The loss of privileges is there.

Q. Are there no sins which can be expiated by *prayaschitta*?

A. There are.

Q. I am talking of the sin called *brunhathia*. Is there no *prayaschitta* for this?

A. There is *prayaschitta* for *brunhathia* but not for the deliberate failure to effect the marriage of his daughter.

Q. With regard to the texts on consummation of marriages do you think they are imperative, i.e., that consummation of marriage must take place within 16 days after the first menses?

A. Yes. It must be done within 16 days.

Q. What is the penalty if it is not done?

A. The penalty is that such cases make the parents get involved into sin.

Q. Is there any *prayaschitta* prescribed for breaking this law?

A. He has already become a sinner and he is not excused by the *shastras*.

Q. I am talking of the man not going to his wife after the first menses. Does he not break the law and does he not commit a sin?

A. He does.

Q. Is that sin expiable?

A. If it is done with the idea that garbhadan ceremony is postponable that is as an act in which there is a deliberate motive against the recognised *samskara* it is another kind of sin and it is not simply a case of *brundhatia*.

Q. Suppose he wants to keep the garbhadan postponed for a year deliberately, is there a *prayaschitta* or not?

A. I mean to say that we must study his motive.

Q. Does the *prayaschitta* depend on motive?

A. Yes.

Q. Will you please quote the authority for this?

A. I shall quote.

Q. As a matter of fact are you aware that amongst the Brahmins of the Madras Presidency the ceremony of garbhadan is often postponed to one year after puberty?

A. It is done.

Q. Do not the Brahmins commit a breach of the law?

A. They do.

Q. Would you be able to say that in the most orthodox families this law is not broken?

A. This is rather a confusing question. I know in most of the orthodox homes the law is not broken and I also know homes where the law is broken invariably. An orthodox man who breaks this law ceases to be orthodox in my opinion.

Q. Does he cease to be a Brahmin?

A. I don't go so far.

Q. Do you mean to say that as soon as he breaks any portion of the law laid down by Smritis he ceases to be orthodox?

A. He ceases to be orthodox if he breaks any portion of the laws which are most binding.

Q. Are not all the laws binding?

A. There are certain laws which may not be binding.

Q. Is the study of *vedas* binding or not?

A. It is binding. It is imperative.

Q. Is the observation of *brahmacharya* till a certain age binding or not?

A. It is very binding.

Q. What is the age for *brahmacharya* laid down?

A. Till he finishes one *shakha*.

Q. What does that mean?

A. It may mean 24 years.

Q. Do you think that that law of studying the *vedas* and observing the *brahmacharya* is broken by many orthodox families?

A. Again here is a confusion of two points. If you take into consideration only the *vedas*, I say that there are many many homes where the *vedas* are still recited. If you take celibacy into consideration I must confess that probably one in a thousand maintain this *vrita* properly?

Q. What do you think of those not studying *vedas* and still being Brahmins?

A. They are not orthodox.

Q. Would you also make them a *pangteya* and *ashradaya*.

A. Yes.

Q. With regard to the consummation of marriage, does not *Shusruta* say 16 and 24?

A. Yes: it is true; but the Dharma Shastras speak of consummating the marriage after the first menses within sixteen days. In *Manu Smriti* we find a reference that whosoever wants a *Jasovan* to be his or her son must

wait for six years on *vrata* and whosoever wants a valorous son must wait for three years and so forth. Both the husband and wife must combine in this *sankalpa* and deliberate in supplication and prayer for six years to get that Mahan; for three years to get a great Vira and so forth. According to the recognized principles of exegetics which Hindus are following to-day, they think that all the authorities must be reconciled and the method of reconciliation is followed in this manner. There is Shusrutta and other medical works which say that to get the most excellent products so many years must elapse.

Q. They don't say that so many years must elapse. All that they say is that if a *garba* is established, then it may die; and if it does not die, it will live only for a short time.

A. I mean to say that if consummation is effected, according to medical authorities, it means manifestly that products will be most desirable. The reconciliation which the orthodox people follow is this. They marry their girls before puberty and if the husband and wife are prepared to remain most chaste to get an excellent sort of progeny, they are permitted to continue so and if the husband and wife are not confident in this respect lest they commit sins, they should consummate as early as possible.

Q. Don't you think that it involves a breach either of the Smriti law or the Shusrut texts?

A. It needn't involve any conflict here.

Q. Does it not occur in practice?

A. Yes.

Q. Does that not lead to the conclusion that if you follow the Smritis, you must consummate early within 16 days of the *rithu* (menses)?

A. That may be at 13, 14 or 15.

Q. Will that not go against the law prescribed by Shusrut?

A. It does not go. If Shusrut thinks that if the pair are not confident, then it will be dangerous to dictate celibacy to them.

Q. Shusrut doesn't say anything about the confidence.

A. That is the tenor of the whole aspect. I mean to say he prefers private intimacy than promiscuous social corruption.

Q. I want to know whether if a man cohabits with his wife before she is 16 and before he is 24, that practice will militate against what Shusruta has laid down. Will it or will it not militate?

A. It will not.

Q. Is there *chathurthi vrata* performed in this part on the fourth day of the marriage? Are not all the texts recited?

A. In this part of the country they don't repeat all the *mantras* of *garbhadan*.

Q. Do they repeat some on the *chathurthi karan* day?

A. They repeat such *mantras* as may mean intimacy between the husband and the wife except intercourse.

Q. Is there a practice here that on the fourth day the husband and the wife go into one chamber?

A. I think in some communities it is particularly observed, for instance the Madhwas.

Q. Amongst the Madhwas are they sent into the bedroom?

A. They are supposed to do it.

Q. Is that also in accordance with the *shastric* injunction?

A. The idea is 'pre-puberty marriage'. They think that sometimes necessities might arise for the pair to move very closely; and, except intercourse, every sort of association is permitted amongst them; and according to our *shastras* no important function in life can be ever begun without consummating the marriage with a *veda mantra*.

Q. As a matter of practice do they consummate the marriage on the fourth day?

A. No: They don't.

Q. What I ask you is 'is that practice also in accordance with the injunctions'?

A. It is. I wish to make this clear. That no *mantra* is recited for consummating the marriage and except that every sort of association is allowed amongst them.

Q. I want to ask you whether this repetition of *garbhadan mantras* and *chaturthi vrata* is also sanctioned by *shastras*?

A. It is sanctioned.

Q. You mean to say that no intercourse on that day should be had.

A. Ought not to.

Q. Does it take place as a matter of fact?

A. No: it does not take place.

Q. What is the idea then of sending them into one chamber?

A. It does not mean close association. It means that they have got the *vedic* right or privilege of seeing each other very closely. It precludes that one thing, viz., intercourse.

Q. Have you seen Brahmin girl mothers here before they are 16?

A. Not many.

Q. How many girls become mothers below 15 from the society in which you move?

A. I cannot say many.

Q. What is the percentage?

A. It might be about 80 per cent. before 16.

Q. May I take it that 70 per cent. become mothers only after 15 or 16?

A. Yes.

Mr. Kanhaiya Lal: I should like to know whether you attended the Conjeevaram Conference?

A. I didn't attend. I was a student then.

Q. Are you aware that the Conjeevaram Parishad submitted a report in which a summary of the opinions of the pandits was given?

A. I have come across that report and have also read the report. I say that the Parishad was not perfect and that the pandits rebelled and went out. As a matter of fact there was a confusion in the conference.

[Extracts from the report read (1)]

Q. Was it not the preponderating opinion of the pandits assembled at the conference that marriage after puberty was permissible in certain circumstances?

A. Now-a-days pandits can be had in large numbers to support any view.

Q. Out of about 70 pandits who attended the conference at Conjeevaram only 7 said that the *shastras* prohibited post-puberty marriages while the rest allowed it in some form or other. Don't you think there is a real difference of opinion in this particular matter and that the opinions are very large in favour of holding post-puberty marriages?

A. Last year only we had a conference in which 70 pandits took part all of whom opposed these resolutions. As I said pandits can be brought into any conference to support any view, and if it will be possible for the Committee to secure the opinion of important conservative Mutts in this country and if you then report it to me that they accepted it probably it would brook me to an awkward predicament.

Q. Was there not a similar conference of pandits at Thiruvadi and was it not the preponderating opinion of the pandits there assembled that marriage after puberty was permissible under certain conditions?

[Extracts from the report read (2).]

A. I could accept it if important conservative Mutts in the country come to that conclusion.

Q. Do not Manu and Bodhayan say that whenever there is a difference of opinion, call all the learned pandits in conference and take their opinion?

A. It is true that when there is a confusion, we should call all the learned pandits and take their opinion. But I hardly found a pandit who submitted his true views in the Conjeevaram Conference, and they were not the kind of pandits that are referred to in the *smritis*.

Q. Is there or is there not a difference of opinion on this matter and do opinions differ as to whether the direction is recommendatory or mandatory?

A. I must say because you press me for an answer that the difference of opinion is not worth considering because it is not properly obtained and I am conscious that there are far more learned pandits to oppose the views which you had just read out to me than the pandits who supported this conference.

Mr. Bhargava: What are the kind of pandits that are referred to in the *smritis*? What are their qualifications?

A. A pandit should not be tempted by gold or titles and so on and this is the first moral conclusion which a pandit should see.

Q. I should like to know, whether in cases of necessity or when it is unavoidable marriage is permissible after puberty.

A. It is not permissible after puberty. As a *samskara* or as a religious sacrament, it is never permissible.

Q. May I ask you whether if a girl attains puberty during the celebration of marriage ceremony, our *shastras* do not lay down a certain purificatory ceremony in order to allow the marriage to be completed?

A. That is for that case only.

• Q. What is good for one class might hold good for another. Is it not so?

A. It cannot hold good. It will be a dangerous thing, and will damn the ancient institution enjoined by *shastras*.

Q. Does not Manu lay down that if a girl cannot get a suitable husband, it is better she can remain unmarried throughout her life?

A. If the parent cannot find a suitable husband for her, then she may remain unmarried.

Q. So that don't you think that Manu permits?

A. He does not permit.

Q. Does he not permit under unavoidable circumstances?

A. The Manu does not sanction or recommend this affair. He thinks that giving the daughter to a well deserved *brahmacharinya* is the supreme *dharma* and he says that she can remain unmarried till she gets a suitable husband.

Q. You have said that there is no *prayaschit* for a girl after puberty. Is that so?

A. For deliberately setting aside the marriage there is no *prayaschit*.

Q. Do any of the *shastras* enjoin that Brahman girls should be married after puberty?

A. No; post-puberty marriage is not allowed.

Q. We have got the opinion of some pandits to the effect that marriage should be only after puberty.

A. I would say this opinion is not worth consideration because it is not properly obtained.

Q. Is there any mark on the heads of pandits that this man is bribed and this man is not bribed? We take any pandit as good as you.

A. I request the Chairman once more that these views should be taken through proper sources. If under the presidency of a religious head a *parikhed*

is held that would be reliable. If other people convene conferences, I think those are not authoritative.

Q. In this conference there were only 18 pandits for pre-puberty marriage and a host of others for post-puberty marriages.

A. I only say that in the place of post-puberty marriages *garbhada* should be substituted then it would be correct otherwise I challenge those pandits to prove this. Those pandits have misrepresented. Those conferences were convened by themselves and not by the religious heads.

Q. May I know what other conferences have been convened here in connection with this question?

A. There was one in Cuddalore and another at Tinnevely. The man who took the chair is a religious head and I was the organising secretary. There was a conference last year in Triplicane which was also provincial. Although it was called all-India and a few pandits came from the north but nobody can challenge the provincial character of this pandit's meeting. In all of them we passed resolutions just supporting my view.

Q. In the conference which I have referred to, speeches were permitted by anybody and resolutions were passed. The opinion of each pandit was recorded separately.

A. We do not call those conferences as representative.

(Witness promised to send reports of the conference.)

Q. May I know whether *shastras* recognise any difference between *vidhi* and *niyam*?

A. Yes—For instance this pre-puberty marriage is *Vidhi*. It is compulsory.

Q. What is the distinction between *niyam* and *vidhi*? Is not according to the *shastras* marriage prescribed in order to produce offspring to pay *pitri rin*?

A. I do not wish to make the two terms convertible. *Pitri rin* may be *kama* but it is not intended to satisfy the *pitris*, though I know it does satisfy, but it is done with a view to obey the *shastras*.

Q. Could you give us any particular authority requiring marriage to be performed before puberty and to show that it is not a *niyam* but *vidhi*?

(Witness promised to send the authority.)

Q. Do our *shastras* lay down *brahmacharya* for the girls?

A. *Brahmacharya* for the girls is considered by the *shastras* as impossible. *Brahmacharya* consists in retaining the sex and *shastras* tell us that women cannot observe this *niyam* because they cannot retain the *virij*.

Q. Was not *naijo parit* (sacred thread) ceremony performed for the girls at one time? Was it not prescribed by the *shastras*?

A. That is not enjoined by recognised *sastras*.

Q. Was it recognised by the *vedas*?

A. *Vedas* only record phenomena.

Q. Don't you think according to *shastras* a girl is considered unfit for maternity until she attains the age of 16? *Shastras* were written from the point of view of physical and material well being of the nation.

A. *Shastras* which proceed to deal with this question from the spiritual and moral point of view are far more important than those lesser sciences.

Q. Would you admit that from the physiological and medical stand point it is better that maternity should not take place before 16?

A. I do not admit physiology or medicine. I think when a girl attains puberty she is quite fit for maternity.

Q. Our own science *Ashtang* (*Hridaya*) holds that a girl before 16 is not fit for maternity. Suppose there is a satisfactory medical opinion to the effect that before 16 complete if a girl becomes mother she will suffer in health and the progeny will be weak. Would you be prepared to accept that or would stick to your own *dharma shastras*?

A. I would stick to *dharma shastras*. Medical opinion does not bind us on these points. I hold that the science of physiology and biology does not contradict this ancient institution of this country of pre-puberty marriage plus post-puberty consummation.

Mr. Kadri: Is there any provision in the *shastras* for the education of girls?

A. There is a provision.

Q. Do you mean that by the 8th year a girl's education will be complete?

A. There will be no difficulty about her education on account of her marriage at 8. Marriage does not interfere with education. If the heads of the families undertake the responsibility there need be no sort of trouble in her prosecution of studies provided a proper sort of education is promised to her and a right sort of method is proposed.

Q. Would not the care of maternity and the management of domestic affairs be a bar in education?

A. I do not think.

Q. Do you think the *shastras* injunctions are so inelastic that they are opposed to progress?

A. Some say that you are not so strong as your forefathers were. I do not believe there is any truth that we are not as strong as our forefathers were but to explain this sort of physical and vital degeneration it is necessary for us to go into the causes for several centuries. I believe that the modern civilisation is responsible for this physical degeneration.

Q. You admit there is deterioration but you think there are several causes. Don't you think early consummation is one?

A. It has never been a cause.

Q. If there is deterioration you still hold that our girls of 12 have the same stamina as they had before?

A. There is degeneration but it is due to various other causes.

Q. Girls of 10 or 12 years in those days were stronger and were able to bear the troubles of maternity and the girls of to-day are much weaker. Therefore it is suggested that we should postpone maternity. Do you agree with that?

A. My point is that even to-day girls of 8 married early do not show any signs of physical degeneration because of marriage. There is no logical connection between their marriage and physical weakness. Find out the real causes of physical degeneration and remove those causes. Even this degeneration is in urban areas in rural areas it is not so and yet the system of pre-puberty marriages is more superstitiously followed in rural areas than in urban areas. If you proceed on logical lines, you can never come to the conclusion that early marriage is really the cause of physical degeneration.

Q. Do you realise that there is a large number of child widows in the country?

A. Yes, I do realise that. My own home possesses one.

Q. Don't you think their condition requires some remedy?

A. I only feel sorry that such state of society should be permitted which prepares conditions for the early death of our boys. Young widows are here not because they were married early, but because young men die prematurely. I think all our measures might be directed towards the regeneration of our youths.

Q. Don't you think the chances of widowhood will be minimised by raising the age of marriage?

A. There is no logical connection between the two. If there are no marriages at all there will be no widows. We have to take several factors into consideration. You may think several widows will be saved below a prescribed age but you will be introducing a worse evil.

Q. One thing may have several results but would it have this result that the number of widows will be reduced?

A. The mortality of boys is more after 14 or 16 than before it. This proposition of raising the age of marriage from 13 to 16 does not affect the widow problem appreciably. The production of the widows is due to the mortality among the boys. There is greater danger to the life of a boy between 14 and 21 than before.

Q. If we take the boys age at 18. Before 21 boys will be married and if the rate of mortality is greatly diminished don't you think it will have some effect?

A. How is it going to affect the widow problem.

Q. Some 10 per cent. might be saved?

A. This question does not affect the widow problem appreciably.

— Mr. Shah Nawaz: I understood you saying that boys and girls can postpone their marriages with a view to produce valourous offspring provided they remain chaste and do not go wrong. Is that so?

A. Yes, if they can undertake certain *upanasas*.

Q. But you can postpone consummation under certain conditions?

A. Yes.

Q. To produce valourous children can they postpone consummation for 3 or 4 years? If they follow a course it is a question of intention and procedure.

A. They must be faithful *brammacharyyas*.

Q. Don't you think that under the present state of affairs it will be good for us to produce valorous children?

A. I honestly believe that if you permit any such thing we will produce more syphilitic and diseased children than valourous children.

Q. Do you believe that in the present state of things we cannot produce valourous children?

A. Not unless we develop our energy.

Q. Are we determined to remain slaves for ever?

A. I do not recommend that.

Q. What are the methods that you are suggesting for producing valourous children?

A. I am doing propaganda for developing *brammacharyya* for the boys.

Q. It is a question of *brammacharyya* for the boys and not for the girls. How can you produce healthy children until both are *brahmacharis*?

A. A woman is unfit to become a *brahmachari* because she cannot retain the sex. That is what Dr. Balfour has said.

Q. Do you think our girls will go wrong if they are not married before 16?

A. I think very great men who have studied this problem have stated that it is reasonable to believe that both in the case of boys and girls unmarried state after 15 is never maintainable. I have myself seen masturbation in girls when they are seven years old. I do not believe girls can remain chaste at the age of 14 from the physiological point of view. They can never remain without husband after puberty because the urge is so great. Now-a-days it is impossible for our girls and boys to remain chaste after 14 and 16.

Q. Do you want any social reform in this direction that the age of marriage should be fixed or the age of consent may be raised?

A. I do not want any social reform in this direction.

Q. Do you believe in the procreation of the caste system?

A. Yes. I say that caste system should be reviving to its original form and sense of duty. I am only for reviving the caste and not for modifying it.

Q. What do you think of a man who goes to England and dines?

A. Any Brahman who goes to England is a sinner.

Q. And those who learn English?

A. That is a different thing.

Q. You mean to say that all Brahmans who have been to England are sinners?

A. There are many things to be considered. If a man goes without a certain motive he is a sinner.

Q. You talk of responsible castes on page 8. Who are the responsible castes?

A. Castes to whom the spiritual and moral welfare is entrusted. They are the Brahmans first, Kashatrias and Vaishas next.

Q. What do you think of the Mohammedans and Christians?

A. They are not concerned because our injunctions do not apply to them. If according to their own injunctions they do wrong they are sinners.

Q. You say that if pre-puberty marriages are not performed men will go to hell. What do you mean by hell?

A. Hell is a condition that is created for the soul after it leaves the physical body.

Q. In paragraph 4 you say that women should do indoor work. Should she not take part in the Legislative Council?

A. No.

Q. Should she have no power of vote?

A. Nothing of the sort.

Q. They should not elect or be elected members of the Legislative Council or municipality?

A. Once she is married she should faithfully serve her husband. For her he is everything.

Q. Is she entitled to hold property of her father?

A. In some ways.

Q. She has no civic duties?

A. No. There is nothing more sacred than the maintenance of ones home.

Q. Don't you think she should have a voice in the selection of her husband?

A. I think she cannot select a husband properly. During the time that she may be most useful to the society she lacks experience and also she is led away easily.

Q. Can she be independent in any way?

A. Not in the house of her husband. In the outside world she has no place.

Q. Can she enter into contract to manage the property?

A. She can after she has sufficient experience.

Mr. Bhargava: What is the population of Brahmans in Southern India?

A. I do not know. They are in a minority.

Q. How many are read in the Vedas?

A. Most of them can recite Vedas.

Q. Though they may or may not understand?

A. There are some who understand but many do not understand.

Q. Can 90 per cent. recite Vedas?

A. 99 per cent. can recite Vedas. According to our religion one cannot remain a Brahman unless he possesses at least minimum amount of text from the Vedas.

Q. What are the qualifications of a pandit as Manu has defined?

A. He must know at least one Veda completely and he must be one beyond any temptation or reward. He must have real and genuine love for the prosperity of the people.

Q. Do you know of any pandit who would answer to this definition? So far as Madras Presidency is concerned can you give me the name of one such pandit?

A. I can give you two names. One is Narasimhachariya and the other is Subramaniya Sastri.

Q. Do you include yourself amongst the two?

A. I am a humble worker; I do not want that greatness.

Q. Do you know of any pandits in the north?

A. I have not come into intimate contact with people in the north, but I hear there is a great scholar in the Jaipur city.

Q. Do you not think that most of the so-called pandits can only recite the Vedas, but can neither read nor write?

A. That is not my view.

Q. What do these Brahmin priests do when they go to non-Brahmins' houses? Do they eat there?

A. When they go to a Shradh or some other ceremony in the houses of the non-Brahmins they get provisions from the non-Brahmins.

Q. What is the state of the literacy amongst Brahmin women here?

A. If you mean by literacy mere reading and writing, I know a large number of Brahmin women who know both very well.

Q. Would it be 10 per cent. of the entire population?

A. Amongst Brahmins I find them mostly literate especially those who are in urban parts or are near urban centres. Even in far off villages most of them are literate.

Q. What do you think of a connection like this: when the son of a brother marries the daughter of the sister?

A. It is forbidden according to *shastras*.

Q. Is it allowed by custom here amongst both Brahmins and non-Brahmins?

A. It is allowed in many places, but is against *shastras* and science also.

Q. How do you differentiate between a forbidden marriage and an incestuous marriage?

A. Incestuous marriage is a marriage between very close relations of the same parental stock.

Q. But are not the brother and sister removed by one degree only?

A. But according to my knowledge, there is a difference between an incestuous marriage and a forbidden marriage.

Q. Do you think that persons who contract such marriages will go to hell?

A. Yes.

Q. May I know if this sort of connection is mandatory or recommendatory?

A. It is recommendatory and not mandatory.

Q. What are the criteria for finding out whether the injunctions are mandatory or recommendatory?

A. There are certain Nibandhana Granthas according to which we will have to class actions either as mandatory or recommendatory. You will find this clearly stated in a book called Vaidyanatha Dikshitiyam. There you have got a number of Dont's and Do's.

Q. But Manu does not sometimes differentiate between *vidhi* and *niyama*. What will you do in such cases?

A. When you do not find such distinctions in Manu you will have to fall back on some other ancient directors who have enunciated these divisions.

Q. Have you got finally to fall back on the Vedas?

A. Even the Vedas come under the same group. They do not give orders in the Vedas.

Q. Is there Vedic authority on the point whether there should be pre-puberty marriages?

A. The Vedas are not mandatory about anything.

Q. Do you think therefore that if a person believes in the Vedas he is not bound to celebrate pre-puberty marriages?

A. He is not bound to do anything.

Q. Leaving aside other authorities, even amongst the *smritis* there are conflicts on points. For instance Manu prohibits and allows widow re-marriages in the same place. Do you not therefore think that it is difficult to come to any conclusion from these texts one way or the other?

A. But there are principles laid down for the interpretation of the minor and major *smritis*.

(1) At Conjeevaram Parishad held in 1912 one of the questions discussed was—

“Do any of the *shastras* prescribe post-puberty marriage for Brahman girls or at least permit such marriages as an inferior alternative?”

The answers were—

- (a) The *shastras* prescribe post-puberty marriage for Brahman girls—eight pandits.
- (b) Some *shastras* prescribe post-puberty marriage, others merely permit such marriage—two pandits.
- (c) The *shastras* permit post-puberty marriages under certain circumstances for a period of three or four years after puberty—twenty-one pandits.
- (d) The *shastras* permit such marriages only under unavoidable circumstances—nine pandits.
- (e) Though permitted by the *shastras* under certain circumstances such marriages would be against the practice of the pious and the learned, and should not be adopted—only three pandits.
- (f) The *shastras* prohibit post-puberty marriages—seven pandits.

(2) At Thiruvadi Parishad held in 1914 this question was discussed. The question was as follows:—

Do any of the *shastras* ordain that Brahman girls should be married only after puberty, or allow such post-puberty marriages as an inferior alternative, i.e., as a *Gauna Kalpa* or as an *Apathkalpa*? If the last, what kinds of *Apad* justify the postponement of marriage till after puberty?

The answers to this were as follows:—

(1) The post-puberty marriage of Brahman girls is recognised by the *shastras*—one pandit.

(2) According to the *shastras* Brahman girls should be married only after puberty, i.e., post-puberty marriages are prescribed as a *Mukhyakalpa*—nine pandits.

(3) Post-puberty marriages are permitted by the *shastras* as a *Gauna Kalpa*—twenty-five pandits.

(4) Post-puberty marriages are allowed as an *Apathkalpa* the *Apad* contemplated arising from such circumstances as follows:—difficulty of securing suitable bridegrooms, the poverty of girls' parents or guardians, domestic inconveniences.—Thirty-three pandits.

(5) Post-puberty marriages are recognized by the *shastras* only as an *Apathkalpa*, the *Apad* contemplated arising from circumstances altogether beyond the control of the girls' parents or guardians, such as prolonged famine, foreign invasion, and similar acts of *vis major*, or from the prolonged illness, personal deformity, etc., of the girl—fifteen pandits.

(6) Post-puberty marriages of Brahman girls are not prescribed by the *shastras* either as a *Mukhya*, *Gauna* or *Apathkalpa*—13 pandits.

These are the opinions of pandits from different places regularly recorded and the name and opinion of each pandit is given.

**Oral Evidence of Mr. SAMI YENKATACHALAM CHETTY, M.L.C.,
Madras.**

(Madras, 22nd November 1928.)

Chairman: What District you come from?

A. I come from Madras but I was born in Guntur District.

Q. The opinion that you are going to give relates to Madras itself or Guntur or both?

A. It relates to the whole of the Madras Presidency.

Q. In the matter of Age of Consent and the law of marriage are you in favour of legislation at all?

A. Yes.

Q. Why are you in favour of legislation?

A. Because I find the ordinary public is not able to appreciate the necessity of putting off consummation of marriage to a stage of full physical development of both boys and girls.

Q. Have you any reason to think that among the communities who have pre-puberty marriages there has been deterioration of race all round?

A. As far as the Vaishya community is concerned, of which I can speak with authority, there has been a physical deterioration.

Q. When is marriage consummated among the Vaishyas?

A. At about 12.

Q. In what percentage of cases?

A. I think it is in 60 per cent. of marriages.

Q. Have you known of cases of girl-mothers of 13, 14 or 15?

A. Yes.

Q. Could you tell us one or two cases from your personal knowledge where early consummation took place and the girl or the child suffered?

A. Until about 3 or 4 years ago so far as the city of Madras is concerned there have been any number of cases in which girls of 13 years give birth to children but many of these deliveries were fatal.

Mrs. Beadon: Were they able to afford to summon medical help?

A. Yes.

Q. Has a change come in the community now?

A. Yes. People do not know when medical assistance should be obtained. Now we have organised child welfare centres and we are sending our nurses and medical women to take charge of these cases and pay early attention. Now I think there has been a slight decrease in the mortality.

Q. The decrease is due to better medical treatment or to late marriages?

A. It is due to both. There has been a tendency of late years to raise the age.

Q. At what age does consummation takes place now?

A. Consummation is put off by one or two years after the betrothal.

Q. We were told that when betrothal is done consummation follows immediately.

A. Previously it was so but now there is a tendency to postpone consummation for some time. Marriage takes place between 8 and 10 and girls attain puberty at 12 and consummation is put off for 6 months or one year.

Q. So consummation takes place between 13 and 14?

A. Yes.

Q. We have been told that although many cases of breach of the present law occur no case has come to light. Can you suggest anything to bring these cases to light?

A. I can only suggest the constitution of a panchayat for each community.

Q. Do you think a panchayat would work in a city like Madras?

A. Yes.

Q. Who would come forward and make complaints to the panchayats?

A. If a panchayat is constituted and powers are given to take cognisance of such cases there will be discouragement for people to consummate marriage early. It should be a communal panchayat and Government should authorise each community to elect a panchayat.

Q. Would the punishment be a social punishment or would the panchayat bring it to the notice of Government?

A. So far as my community is concerned the existence and fear of the panchayat will be a great deterrent especially in view of the fact that there is a strong feeling to put it down. It will help a great deal in stopping this kind of offence.

Q. What about children of those girl-mothers?

A. Children die very soon for 2 reasons. In the first place the mother is very young and does not know how to bring up children and secondly she has not got enough of milk to feed those children. They are fed on foreign foods.

Q. You said that it is only now that they have this deleterious effect. On what were those children fed before these foreign foods came in?

A. Now there has been a great deal of deterioration from generation to generation.

Q. What is the cause of that deterioration?

A. In city life it may be due to insanitary conditions but so far as villages are concerned it is due to economical causes.

Q. Do you consider that physical conditions of the people in villages is practically A1 whereas the physical conditions of the people in towns is C3?

A. I consider in villages it is C2 and in cities it is C3.

Q. You think it is due to economic pressure?

A. Yes.

Q. You do not think it is entirely due to luxuries such as cinemas that are being inflicted on the people now?

A. So far as villages are concerned it is purely economic.

Q. Why is the economic condition of the villages so very bad now? Do you trace this economic condition to the want of proper irrigation facilities—are the irrigation facilities worse off than they were 10 years ago?

A. No.

Q. You think in the villages the marriage age is going up.

A. It is not going up on account of any feeling that the marriage should be performed at a later date but it is due to their not being able to find a proper match.

Q. You think the dowry system is pressing hard on the people in the villages?

A. Yes.

Q. Is it not only among Brahmans but also among Vainhas?

A. Yes.

Mr. Mudaliyar: Is it a fact that at one stage in your community religious feelings predominated that marriages should be pre-puberty marriages?

A. Yes.

Q. At present is that religious feeling not so strong?

A. It is still strong but there have been many breaches and public opinion has advanced.

Q. Were there conferences of your community in which these questions were considered?

A. Yes, one at Guntur and one at Salem.

Q. What were the resolutions passed in those conferences?

A. The resolutions were to the effect that there should be post puberty marriages.

Q. Did your conference consider the age of consummation?

A. No, we thought that by putting off marriage to post puberty the age will automatically go up.

Q. What is the age you advocate for Age of Consent in marital cases?

A. 14.

Q. And in extra-marital cases?

A. It must be at least 18.

Q. Is there any consummation before puberty in your community—do you know of any cases?

A. I have not known cases but I have heard that in certain parts of Nizam's Dominions there were certain stray cases.

Q. So far as this Presidency is concerned you have not heard of such cases at all?

A. No.

Mr. Mitra: We have got evidence that Brahman and Vaisha girls attain puberty at an earlier age. Is it your experience also?

A. I think the attainment of puberty is more provincial than communal.

Q. What is the general age?

A. I think about 12th year.

Q. You think some period must elapse after the first menstruation before a girl is fully developed. What period should elapse?

A. I would put it at one or two years.

Q. Is there a system of dowry in marriage among Vaishas?

A. Yes.

Q. Do you think it is because girls are to be given in marriage early that this system has developed?

A. No. It is more on the willingness of the father of the bride to give as much money as he pleases to his daughter and that has naturally developed into a sense of grabbing on the father of the bridegroom.

Q. Dowry is given voluntarily by the father of the bride?

A. It started with offering by the father of the bride but later on when people began to see that people are volunteering to give anything demanded they began demanding more and more.

Q. If there is an impression that a girl must be married within a certain age they are forced to pay more dowry. Will this dowry continue if the marriages are made post puberty?

A. It will only diminish by gradual poverty of the community.

Q. What is the ideal age for marriage if there were no religious injunction?

A. 14.

Q. You think by 14th year a girl is fully developed?

A. She will develop to an extent that further postponement may be a danger to her morality. There is a danger of boys enticing them away.

Q. Do you speak from your experience on this point?

A. Yes, that is my observation.

Q. Except among Brahmans and Vaishas girls are married late and it may be even after 14. Do you think there are a large number of cases of girls going astray?

A. The restrictions on unfortunate girls are reminiscent of solitary confinement.

Q. Do you seriously think that there is a danger if they are not married at 14?

A. It is an apprehension but as you progress that apprehension will melt away.

Q. If the medical authorities were of opinion that girls are not fully developed till 16th year, would you agree to the consummation age being raised to 16?

A. That would be rather a drastic step for the present.

Q. You do not want it as a first step?

A. No.

Mr. Bhargava: Am I to understand that your ideal age is 16 or 18 but as a first step you want it at 14?

A. Yes. Further increase in age depends in the manner that 14 will work.

Q. May I take it that since many marriages in your community are performed after puberty, say, at 14, people will welcome this change?

A. They will certainly welcome it if the consummation age is 14?

Q. What would you fix as marriage age?

A. In the case of marriages I do not want the law to interfere.

Q. You want there should be no marriage law but there should be consummation law. Is that right?

A. Yes.

Q. But you cannot rely on the Age of Consent Law so much as on the marriage law?

A. That is more or less an administrative question.

Q. We want marriage law because the Age of Consent has not been effective and will never be. Therefore why leave any temptation for the young men after marriage?

A. I should not have the marriage law.

Q. After a marriage is performed in your community has the husband got a right to go to his wife and cannot the father-in-law and the mother-in-law resist the demand?

A. Except in Madras it is not usual to send the girl to the husband's house until she attains puberty. In Madras it has grown a tendency for the girl to pay visits to the father-in-law's house but that does not mean that these young people are allowed to consummate.

Q. Perhaps in most cases it may happen that they do not come together but at the same time you realise that the boy and the girl are there in the same house and if they want to join there is no bar.

A. There may not be physically any bar but certainly on account of respect to elders they are prevented from joining.

Q. Is widow marriage common in your community?

A. No; it is not common.

Q. What is the percentage of the advanced section in your community which is in favour of widow remarriage?

A. It is difficult to say, because there will be a large section who are silent, but who would still be in favour of such remarriages.

Q. Do you realise that the detection of crimes under the Age of Consent Law is very difficult?

A. Yes.

Q. Supposing there is a law of the Age of Consent fixing the age at 14, do you not think that it will be difficult to bring cases to light?

A. But if communal Panchayats are instituted, they will help to bring to light such cases.

Q. The question of child-widows is there and it cannot be solved unless there is a marriage law. Also the law of the Age of Consent cannot be effectively worked out. Do you not therefore think that it would be better to have a marriage law?

A. In the first place I am not so pessimistic about the working of the Age of Consent Law.

Q. Have you got any other reason?

A. No.

Q. The age has been 13 till now, and I understand that in your community this law is broken. Can you tell me how many cases have come to court from your community?

A. The law has not been effective because the persons who are to enforce this law are outside the community. That is why I suggest that these cases should not go to the ordinary courts, but should be settled by communal Panchayats. The Panchayats can be trusted to discover the offences and mete out punishment.

Q. Are you then in favour of leaving the communal Panchayats to punish the offenders?

A. Yes.

Q. Do you think that communal Panchayats will send a man to jail?

A. I do not want to send a husband to jail at all.

Q. At present the punishment is 2 years' imprisonment.

A. That is why the law does not work. I would have simply exposure and fine. I think that will have a very good effect. More than fine it is exposure that is effective.

Q. Are marriages of men 35 years old with girls of 14 or 15 looked with disfavour in your community?

A. So far as a man of 35 years is concerned, I do not think they are looked with disfavour.

Q. Are there many cases in your community in which persons buy girls?

A. Yes; such cases are common in the Nizam's Dominions.

Q. Are these persons who contract unequal marriages ex-communicated?

A. So far as a person of 30 marrying a girl of 15 or 16 is concerned, it does not seem to me to be a grave offence.

Q. Do you think that there is nothing wrong in a man of 35 marrying girls of 18 to 15?

A. I do not think there is anything deplorable in such marriages.

Q. Are there Panchayats in your community?

A. Not in the city of Madras. There are Panchayats in the villages.

Q. Do you think that in villages in which there are only 4 or 5 families of a particular community you can have such Panchayats? You are speaking of investing them with criminal powers. Do you think the people in the villages will be able to discharge these duties?

A. In the case of there being only 4 or 5 families in some villages, you can group together a number of villages and have a common Panchayat for them.

Q. What is your objection to trials by an ordinary court?

A. I do not want domestic affairs of one community to be discussed by persons of all sorts.

Q. Do you not think that your object will be better served if you prohibit marriages below a certain age because then these things can never come before courts?

A. I do not think there is any necessity to prevent the betrothal of young people.

Q. But after a betrothal the girl becomes a widow if the husband dies. Supposing cases under the Age of Consent Law do not come before the Panchayat courts, what remedy would you suggest?

A. If after having the law for some time cases do not come before the Panchayat courts, then it will be time to consider further modifications.

Q. Would you not then support the penalising of marriages?

A. I consider it unnecessary to be drastic in social matters.

Q. The only reason given by you is that these cases will not be detected easily or there will be scandal. Do you want to give any other reason why there should not be prohibition of child marriages?

A. One reason is that it will disturb certain of our affairs so far as the marriages are concerned. For instance, there may be an aged parent who might like to enter into a particular connection.

Q. Supposing an exemption clause is provided that in certain cases there may be exemption, will you be satisfied then?

A. That will depend upon the exemptions you grant.

Q. Supposing there is a provision that exemptions can be granted in proper cases, then I take it that you will have the age of marriage at 14. Then would you consider that in the interests of national health, the age of consummation may be raised to 16, because that is according to *Susrut* the proper age, and before that there is danger to the girl and to the progeny?

A. I entirely see the force of following medical advice in this matter provided the surroundings are pure as expected. But now the atmosphere is so contaminated that it is not perhaps safe to allow young girls to remain without consummation being performed so late as 16.

Q. May I take it that if the age is raised to 16, the surroundings will become better?

A. I cannot agree with that point of view.

Q. Then may I take it that you are in favour of both the age of marriage and the Age of Consent being fixed at 14?

A. Yes.

Mr. Shah Nawaz: What is the percentage of your community in Southern India?

A. We are about 5 to 6 lakhs of people in a population of about 44 millions.

Q. Do the members of the community favour pre-puberty marriages?

A. We are actually performing pre-puberty marriages.

Q. Do a considerable number of people amongst you perform post-puberty marriages?

A. We are winking at some marriages performed after puberty.

Q. Why are you performing pre-puberty marriages?

A. Unfortunately there is a tradition that girls should be married before puberty.

Q. Is this due to religious injunction or to custom?

A. It is due to custom rather than religion.

Mr. Kadri: You said you would be in favour of power being given to caste Panchayats in marital cases. Do you think you can secure proper Panchayats in the case of minority communities? Supposing there are only one or two Muhammadan houses in a village, what would you suggest?

A. Wherever there are a small number of families of any community it would be better to group several families in the neighbouring villages.

Q. Do you not realise that there may be factions and jealousies between neighbouring villages and the Panchayats might be carried away by factious spirit?

A. You should try to get the right sort of men. I do not know what our salvation is going to be if we cannot improve our Panchayats.

Q. At present cases under 12 go to a Sessions Court and the punishment is 10 years, and cases above 12 go to a Magistrate. Now, instead of having these communal Panchayats, would it not be preferable to have a separate court consisting of a magistrate and two non-officials to try these marital cases irrespective of the age of the girl?

A. That would be a second option if Panchayats are not favoured.

Q. The present punishment is 10 years in the case of girls under 12. Would you retain it or recommend any change?

A. But I would not like a husband to be punished for 10 years.

Q. Supposing the girl is 10 years and the husband is 40, and there is injury, would you not have a serious punishment?

A. But the unfortunate thing is the greater the punishment the less are the chances of discovery of the offence.

Q. Would it not be better to have one court to try all these marital cases whatever the age of the girl?

A. I am afraid the constitution of the court and the discussion of these matters would be like divorce proceedings in other countries.

Q. Is it not a fact that these Panchayats are practically unknown in most places, and there will be many communities who would have to be represented? Do you think it will work?

A. As a matter of fact even in cities there are caste Panchayats for each community to settle caste disputes. You will be doing a lot of good if you give these Panchayats life again.

**Written Statement of Brahma Shri K. G. NATESA SASTRIGAL,
Editor, "Kalpadruma," and Senior Physician, Venkatramana Dis-
pensary, Madras.**

Answers to the Questionnaire.

1. The law, as it is, encroaches upon the rights of individuals accrued to them, by way of certain specific ceremonies performed in all solemnity and is therefore a direct interference with the common law. It must therefore surely be causing dissatisfaction, in so far as it relates to marital cases. As in the Roman Catholics the marriage in India is a sacrament as explained in the answer to question No. 7. It is not a social contract as it is presumed by the law of England. Even this law makes an exception in the case of Quakers of Jewish persuasions. It allows that these might marry according to their own usages, though, as is always the case. It makes some provisions, by a later statute, for those who dissent from the discipline and doctrine of the Church of England and yet are not Quakers or Jews. The law presumes that the husband and wife become by their marriage a single person in the eye of law. That is the view of the Hindu Law also. It is natural therefore that a wife accrues certain privileges and concessions by her coverture from her husband; and the husband undertakes all the responsibilities of his wife upon himself, and enjoys, thereby, certain privileges over her. Section 375 therefore nullifies these rights and privileges over her, accrued to him by his marriage, while it still retains the obligations of the husband to his wife irrespective of any considerations. In view of the idea of marriage explained hereafter it is a direct violation of the principles of neutrality proclaimed by the Sovereigns of the land in matters of religious and socio-religious customs. For, according to the law of the Hindus a woman cannot remain a *feme sole* which is contrary to the principles of the Smriti law. The law as it is now obtaining in India is far in advance of the English law and is considered to be more progressive than the English law,

which it takes for a model. While that law exempts an infant under fourteen years as being incapable of committing the offence of rape and therefore cannot be guilty of rape though in other felonies it takes cognizance of him. Section 375 considers that section to have no application in India. (37 All. 187.) In similar manner the law in England presumes that a husband is outside the scope of the crime of rape with his legally wedded wife. The very fact that the law of England provides for the punishment of the crime of rape by males, generally, and it does not even mention the case of the husband as a perpetrator of the crime, shows that it takes no cognizance of him at all. For, unlike the Roman law, which supposed a woman never to go astray, without the seduction and arts of the other sex, and therefore attempted to secure the honour of the women effectually by making the solicitations of the men heavily penal, the English law made it a necessary ingredient in the crime of rape that it must be against the women's consent. It did not entertain such sublime ideas of the honour of either sex, as to lay the blame of a mutual fault upon one of the transgressors only. But it made it a crime to ravish a damsel of within age, i.e., twelve years old, either with her consent or without and made it a capital felony by 9 Geo. IV, c. 81. And by the Statute 24 and 25 Vict., c. 50 and 51, it was made a penal crime to abuse a child of under ten years even though she consent, and a misdemeanor to commit the same offence with a girl of under 12 years and above 10 years, even though she consent. But in all these cases the English law did not take into consideration the case of a husband who does the same crime. For, the law presumes that a husband has the consent of the girl in consequence of the marriage he had contracted with her in the proper form. Otherwise it would have made provisions for it in the law. The general cases cannot be made to operate also in the case of the husband. The law which had made elaborate procedures for the admission of the evidence of a wife against her husband and *vice versa* in other cases, as adultery, etc., would have made also certain procedures for the admission of the evidence of the abused girls against the husband, if he had been the perpetrator, in these cases as well. Even in certain cases a wife or the husband, the law provides, need not be compelled to give evidence against him or her, and therefore left it to the discretion of either. Under these circumstances it should be understood that the English law takes into cognizance of the fact that the consent of the girl is presumed in all cases where the pair happen to be married with solemnities, and considers that he could not come therefore under the category of the ordinary individual who commits the same offence. As against this the inclusion of marital cases under the category of ordinary felony in the Indian law is against the spirit and idea of matrimonial relations, as it is against also the spirit of English law as well as the Smriti and common law. In this connection it will not be out of place to take the warning of an eminent jurist in England, Sir M. Hale, on this question; he says:—

"It is true, says the learned Judge, that rape is a more testable crime; but it must be remembered that it is an accusation easy to be made, and hard to be proved, but harder to be defended by the party accused, though innocent." Sir M. Hale then relates two very extraordinary cases of malicious prosecution for this crime that had happened within his own observation and concludes thus:—

"I mention these instances that we may be the more cautious upon trials of offences of this nature wherein the court and jury may with so much ease be imposed upon without great care and vigilance the heinousness of the offence many times transporting the judge and jury with so much indignation that they are over hastily carried to the conviction of the person accused thereof by the confident testimony of sometimes false and malicious witnesses."

In the face of this open fact the decision of the Indian Courts that a boy of 12 years though incapable of committing rape may be guilty of an attempt to commit the offence is ridiculous. The inclusion of a marital case under this section is therefore obnoxious and malicious and unwarranted under any circumstances."

2. In the face of facts above mentioned the exclusion of marital cases from the perview of this section will be the only most judicious piece of legislation than any side-tracking of the question. As has been pointed out in the answer to the question No. 10 below, the age of 12, being the age of puberty when a girl's reproductive organs are competent to operate functionally, should be considered the proper age for consummation and the making of any advance from it in law in marital cases is inadvisable. There is no ground for justification for such an attempt now, in this country at least, where the system of marriage has got a peculiar significance. Any attempt therefore to make an advance on the present law must be a serious breach of faith and an inroad upon the rights of particular class of people who follow the tradition of their fathers. It must be understood here that the inclusion of marital cases in this section affects only a small minority of the people of India who call themselves Brahmans and who only form a small group—say, 3 to 4 per cent. All the other classes or almost a very high majority of them follow the practice of post-puberty marriage and therefore cannot come under the cognizance of this law. For, whether consummation or betrothal they marry only after the age of maturity, i.e., beyond 13 years. The Smriti law operates only upon those who have been bound by a series of Karma, from their birth to their death, and not on any other. That law prescribes the very fast ceremony of the would-be-born progeny while he is yet to be conceived in the womb of his mother, should be performed soon after puberty whenever it occurs. After the age of 12, or for that purpose, of eleven, we do not know when that occurs. It may be anywhere between 12 and 13. The raising of the age in marital cases therefore is arbitrary and unjust, and in direct contravention of Vedic injunction, which is supreme. It will entail both the parent and the child to eternal disqualification in the world beyond and a severe suffering to the parent here due to royal impositions of penalties. What the Vedic law can give cannot be expected to be achieved by human laws, nor even by Royal prerogatives. Legislation can only remove civil disabilities; but it cannot do the same in the case of spiritual disabilities. The safeguarding against spiritual disabilities is far more vitally important than the removal of civil disabilities; and the duty of a sovereign who is really concerned over the future welfare of his citizens, should always be to help them to realise their spiritual salvation according to their respective convictions and not to be a bar to the spiritual progress of their soul. Under these circumstances it would be justified if the Government would amend the law in marital cases to be in co-operation with the Smriti law which is also in perfect agreement with the law as it existed before the amendment of 1925.

3. The provisions of law are only directive and can never be an absolute eradicator of crime unless they are backed by the moral and spiritual laws. Mere civil provisions cannot improve the situation. Human nature is always prone to easy going and satisfy the impulsive wants of the senses. It will always be finding out opportunities for such a satisfaction and would not keep aloof simply for the sake of a civil disability which could be made and unmade at the free will of particular individuals, unless it is countenanced by a moral and spiritual punishment. Have we not before our eyes instances where crimes are daily being perpetrated in an alarmingly increasing number notwithstanding the deterrent provisions in the civil law for their punishment? It is quite common in all the world. Whether the Age of Consent outside the marital case be 14 or 40 it is all the same. One who is bent upon doing a crime finds it easy to carry out his designs though mischievous, to completion. And where the other sex is left free without any punishment for her crime surely the crime of seduction should be in the increase. And greater should it be so when the girl is allowed to roam over free after the age of her puberty. The position in modern America and Germany is an ample testimony to this situation. An extract of the conditions now obtaining in the modern America as depicted by Judge Lindsay has been published in the *Kalpadruma* of the 9th instant. The "Revolt of Modern Youth" by that very same gentleman will show that it is not all well with the youths of

America and the marital conditions are changing to the detriment of the national system of marriage there. The incident now taking place within the municipal limits of Madras to-day (12th August 1928) within the Theosophical compounds are not speaking well of the existing condition of the law which makes and allows girls of post-puberty ages free to rove over, without any parental control, abroad. It is demolishing the structure of the Hindu society, in the name of free conscience, civilisation and liberty, which no independent nation will tolerate. While the law takes cognizance of the crime of seduction by a male it forgets that the gentler sex, who attain to maturity much earlier than the males are apt to seduce the other sex and legally become entitled to the punishment deserved for that crime. According to Judge Lindsay the highly immoral crime of compassionate marriages are first proposed by girls and followed by the youths. That is the condition to which modern law has reduced us in India. As civilisation increases and the rigours of the spiritual and the moral law are slackened crimes increase in direct proportion to the same and the civil law will in course of time be quite unable to cope with them. As it is the case everywhere in the world so it is in India also.

4. The amendment of the Act made in 1925 has nothing to do with the condition that is now obtaining. By circumstances, purely economical and providential consummation of marriage does take place at a later age after puberty. But it has nothing to do with the amendment of 1925. And that too with a section of the people who consider themselves socially and politically advanced. With those who pay some veneration for the religion of their father-land and who still live in it and persist in following the sacred injunctions of the Vedas and who are no less enlightened, if not more, as the so-called politically minded, it is otherwise. They still follow the ancient precepts of the Smriti law; as Hindus following particular, but peculiar, moral and ethical codes they take no cognizance of the existence of such a provision in the law at all as it is directly against the specific injunction of the Vedic law which in no way contravenes the civil law as it existed prior to 1925 or even 1891. It was in 1891 that the age of twelve was introduced in the case of marital cohabitations. Between 12 and 13 there is no much difference though it is morally bad to regulate it. Any further advancement will seriously affect the solidarity of the society and the purity of the race.

The following few excerpts from Judge Lindsay's "Revolt of the Modern Youth" will give an idea of the womanhood of modern America and of the evils of irreligious and materialistic basis of modern life:—

"During the years 1920 and 1921 the Juvenile Court of Denver dealt with 769 delinquent girls of High School age. They ranged from 14 to 17 years. 465 of them are no longer in schools and 304 of them..... At least 2,000 persons were directly involved in the cases of those 769 girls. Of 313 girls among the 769 about whom a special study was made 365 had come to physical maturity at 11 and 12 years, more of them maturing at 11 than at 12. Of these 313 girls 285 matured at the ages of 11, 12 and 13; and that only 28 of them matured at 14, 15 and 16..... That girls who mature early are in much more danger of getting into sex trouble than those who mature late.....; they are usually more attractive to boys; and they are physiologically awake, with desires of maturity without the intellectual restraints and sophistication of maturity.....; such children at 11 or 12 years may have the desires and physical needs of girls of 18 and older.....; the biological age becomes dangerously preponderant in the combination. Physical maturity devastating in its demands when not controlled is on them at a time when it is not fair nor reasonable to expect adult judgment.....; of 495 girls who confessed to illicit sex relations only 1 in 20 encountered pregnancy. In that case 100 pregnancies implies on a ratio of 1 to 19, at least 1,900 escapes from pregnancy and 200 pregnancies would imply 3,800 escapes from pregnancy, and that among the girls of High School age some in schools and some out of school in a city of 300,000 population..... The home is the very heart of this problem, well-born young people of good stock who come from a certain type of home are in little danger from the

ordinary temptations and freedoms that come their way when they are among their fellows. Unfortunately there are only a few such even among people of good stock. I am sorry to have to say this. I know we talk a lot of patriotic spread-eagleism about the American home even when there are nearly as many divorces and separations as marriages in a representative American city like Denver; but I am obliged in honesty to say that homes in which children can find the right spiritual and intellectual atmospheres are the exception rather than the rule.....; youths that do not get into trouble are the kind that had had the right home training. I say nothing of the right school training, because, except in a few private schools and the exceptional public schools, right training does not seem to exist where the question of sexual conduct is concerned, however excellent a school training may be available in many other directions..... For every marriage in Denver in the year 1922 there was a separation. For every two marriage licenses issued there was a divorce suit filed. These figures are not limited to Denver alone. They are approximately correct for many cities in the United States..... The total divorces and separations for the year amount to 2,992..... As against the total of 1,542 divorces and 3,008 marriages in 1922 in Denver there had been 1,497 divorces and 3,626 marriages in 1921 which means that in 1922 the increases in divorces were 45 and the decreases in marriages were 618. The number of marriage licenses in Denver in 1920 was 4,002. In Chicago there were in 1922 issued 39,000 marriage licenses as compared with 13,000 divorces actually signed. Some of the United Free Press articles concerning the marriage and divorce statistics of the year 1924 reveal—

Name of City.	Marriages.	Divorces.
Atlanta Ga	3,350	1,845
Los Angeles	16,605	7,882
Kansas City	4,821	2,400
State of Ohio	53,300	11,885
Denver	3,000	1,500
Cleveland	10,132	5,256

..... The irresponsible liberty given in the matter of spending money was a contributing factor in all this. It gave them a power and an opportunity to follow their impulses which would not have been otherwise possible."

This is the condition of modern European world. The Hindu society took these facts into consideration and the Vedic religion evolved a system of marriage based on more firmer grounds as spiritual and moral than upon the quick-sand of purely economical and physiological considerations. Man is not a beast. He has got certain functions in the society. Not that he should satisfy the carnal appetite of the physio-biological impulses of nature. That is not the aim of life. Otherwise the power of discrimination and knowledge which is a peculiar distinguishing feature of men from the lower strata of living animals must be a waste. He has to utilise these to the best advantages of the society and the amelioration of his fellow-beings. He has to impose upon the natural impulses of his senses, if he desired to achieve these aims, a strict restraint or control over his senses, not by fear of punishment or evil consequences, or dread of society, or of stern dogmas that have no meaning, but by a sound and logical education of the moral and spiritual ethics of the society and the religion. That was the training that was being obtained in the Hindu home in the days that immediately passed us. This training is not obtainable from books or schools but has to be achieved from association with those who practise them in their daily life. The life of a Brahman is quite such a one, controlled by spiritual and moral discipline and ethics; it is one of duty and love-duty to himself, to his help-mate, to his elders, to his teachers, to his neighbours and friends, to the gods, to lower animals and finally to the society and the State, and love towards his fellow-beings. He has to officiate in one or other of a numerous functions from the early dawn to a late hour in the night through all his life and the wife is also a principal functionary in very many of them. to which she

devotes herself with a will and enthusiasm and with a spiritual mind. There is no nation in the world which prays for the welfare of the world in general—the animate and the inanimate—at the close of each religious function in his daily life,

सखि प्रजापः परिपाकवन्तां न्यायेन मार्गेन मर्त्यो नरोद्यमः ।

मोक्षार्थमेव श्रममसू निखं लोकाश्चमस्तासखिनो भवन्तु ।

[Let there be peace and plenty to the world; to kings who protect their subjects with an even justice; to cows and Brahmans (the spiritual) let there be eternal happiness; let the whole world be happy.] It is not a life of playing the game in an open field of competition which is ever changing and liable to carry us into dangerous mire. As has been pointed out herein, it begins when the would-be-progeny is yet to be conceived in the womb of the mother, from the very first nuptial day. Taking care of the biological impulses of the fair sex which begin to operate functionally much earlier than those in the boys, they are betrothed and united in marriage tie even while the sex impulses have not begun to operate yet. The couple, from the moment of their such marital union, begin to cherish a love that is inimitable and quite unknown to the modern world, towards each other, which grows luxuriantly in the unsullied soil of their tender heart fed by a constant inflow of the essential vital fluid of a series of religious duties or Dharmas to which they become entitled, and nourished by the ever-green manures of a spiritual and moral ethics, by the passing of their years of age and discretion, into such an unimpeachable and unshaken affinity towards each other that even Satan would find it hard to dismantle or disrupt.

It is not the affinity of a master and a servant, or of a man and a woman, or for riches and luxury, or for power and title. It is a spiritual identity of the Soul of the couple. From the moment of their union in wedlock they become one with each other, in all matters, whether physical or personal, economical or material or moral or spiritual. The ceremony of Garbhadan which is performed immediately after the first puberty and within, according to the specific rules of Dharma, a short period after the period of menarche gives the girl the earliest occasion for a taste of the carnal appetite of her sex impulse, side by side with a religious fervour, which saves her from being made a prey to the precarious condition into which the youngsters of other nations fall, in this so-called enlightened world of modern days. Their association with the elders of the family until they arrive at their age of discretion and responsibility, affords them ample opportunity for studying the world as it is and the dangers that surround it. A true and wholesome fervour and enthusiasm is naturally ingrained in them, from close observation and association in the different and varied practices and observances of Dharma in the household of their parents for officiating in them themselves for the future benefit both of themselves and their progeny. And they, now, set to work at it with all the zeal of a true devotee, which means a life of duty to themselves and others in the society. They had been receiving their religious training from discourses from elders the true import of life and religion and their relation to the living world and the world beyond. That is the ideal of the Hindu house which has now been attempted to be spoiled by these vindictive and immoral legislations which aim to turn the heaven of a house of the Hindu to one of hell. What shall we say of the guardians of modern education and the authorities that control them who turn out purely a materialistic youngsters with no spiritual or moral background. What shall we say of these custodians of education who refuse to give their alumni any religious instructions within their precincts. It is with a sense of remorse that we have to declare that the modern University is responsible for the destruction of many an ideal village, for the desecration of many a typical home, for the despair of many a noble parents, for the panic in the hearts of many a devoted wife, and for the irresponsibility towards many a dutiful neighbour. It has supplanted the wholesome and virtuous ideal of

the ancient family life and society by the nefarious evils of destruction known as freedom, liberty, conscience, individualism and equality which are now threatening the effacement of the Western world turning them from human beings to mute brutes. There was a time, when it was the practice in the Western world to divide in partition, even females like immovable properties, like lands and other things and share them in common. Order was restored from it gradually and a system of society was evolved out of it. The modern Western world is now once again returning to that very same primordial condition of the early uncivilised society in a head-long speed, which smell nothing but destruction to the world and its culture in a not far off distant time. The Hindu society is now being thrust into that very same condition which is a dread of all thinking men in those lands.

Under such circumstances, the postponement of consummation beyond the period of its natural craving is undesirable to the healthy progress of the world and the society within it. The principle underlying this fourth question is therefore absolutely immoral, improper, and unwholesome. It is a direct violation of the moral and ethical principles of the society and uncountenanced by biological impulses of the sexual functions and an unwholesome restraint upon the natural activities of the organs of reproduction. Public opinion, if by that term is meant the opinion of the political Brahmins who have no regard for moral or ethical codes and who are bent upon what is easily achieved in the material consideration of the world, then surely it must be said that that opinion lies with sponsors of the present Bill. If by public opinion is meant the opinion of those enlightened people who are still living the religious life of the ancient ritualistic and Dharmic life of the ideal Hindu world of the Smriti and Vedic law, then it can be emphatically declared that their opinion is not with the principles of this legislation. It must be borne in mind that many call themselves Hindus but in reality they are not Hindus of the Vedic religion. They claim no doubt that they are Vedic Hindus, but they are not considered as such by the vast majority of the Vedic people. One who can not and will not observe the rules of the Vedic law cannot be considered a Vedic Hindu. He is a rebel against it. The Arya Samajists are Hindus and call themselves the only true representative of the Vedic religion. To them only the Rig Veda is a Veda and the other Vedas are not Vedas. The Yajushis, The Sama-Vedis are not followers of the Vedic religion. Theirs is not an unqualified acceptance of the Vedic rules of Dharma. They consider others as one among the classical literature of India. How can they be justified in sponsoring through a Bill which affects a vast majority of the strict adherents of the Vedic religion, vitally, who accept the entire Vedic literature unconditionally as of supreme authority in matters concerning this world and the world beyond. Then the Brahmoes are Hindus, but they are not, like the Vedic Hindus, unconditional followers of the traditions of the Vedic religion. But there are certain Hindus who are neither of the above two, nor disowned by the orthodox Hindus as being outside the pale of the Vedic religion. They are here exercising their rights as free born subjects of the British Government, and would neither accept the traditions of the Vedic religion nor declare themselves to be non-Hindu. They would claim all kinds of privileges to themselves but deny the same to their dissentients. They are the greatest dangers to the preservation of the structure of the Vedic religion. Every one of these emphatically declare that theirs alone is the only correct and true interpretation of the heart of the Vedic religion. A time may even come perhaps for the Vedic Hindus to take a lesson in Vedic religion from even those who are non-Hindus. That time has not come yet for the true followers and the faithful and devoted disciples of the Vedic religion to accept these people for the Rishis of the old. It is unfortunate that the Government should be guided by the advice of these retrograde rebels and ignore the counsels of the orthodox Hindus in effecting socio-religious enactments which fundamentally affect the very foundations of the Vedic religion.

5. The age of puberty ranges between twelve and seventeen. We have seen even cases where puberty occurred at eleven. It does not vary according to caste and communities, nor by nations. From the hottest tropical

India to the coldest temperate and frigid zone it is the same. In India we have girls attaining puberty at the age of 12 and even 11 ranging to 17. In England we have the same. In the extreme North—say Norway—we have heard of the same story. From what has been said already, we see that the same story is repeated from America where the age of puberty ranges more on this side of 13, than on the other side of it. Similarly we have also in other communities. As among the Brahmans, so it is among the non-Brahmans. We know girls attain puberty between 12 and 17. Nature is not so indiscrete as we humans are and it finds no territorial or climatic distinction at least in this respect. Medical science confirms this statement. What is medical science after all? It is only the recording of what is generally obtaining in the world. If anywhere there is any variation of this general statement, surely such variations must be due to special causes, constitutional or other diseased conditions.

6. Cohabitation before puberty is against human instinct and no class or community is prone to it. But it does not follow that there could be no exception to this general rule, nor could it mean that an exception may be taken as the rule. For human nature is diverse. If therefore cohabitation before puberty is found anywhere, it must be due to the impulses of the sexual organs and such abuses cannot find support from any moral or civil code. Otherwise it is against human nature to make it a penal crime. It is, notwithstanding its criminal nature, a common occurrence in every country and in all times. For, such ravishing of young girls is to be found in countries where only post-puberty marriage is countenanced both by the canonic as well as the civil law. The provision in the English law which makes the ravishing of a damsel within her age (i.e., 12 years) a criminal offence establishes this fact. And still more rabid it is to find that law making such ravishing of a damsel under the age of ten even though she consent, a penal crime. This shows that the impulses of the sexual organs are not peculiar to India alone and that it is a common factor with humanity all the world over. Otherwise these provisions in the law of England will be meaningless. But this, in the case of a husband, married in wedlock, is not criminal as it is not countenanced by that law.

Cohabitation after puberty is natural and quite within the bounds of the law, moral and civil. It is generally allowed by the religion of all countries and especially of our country.

But there is no question of completing the age of 13. If it is conceded that cohabitation after puberty is permitted by the ethical and the civil codes there is no question of the other clause, coming into operation. It may happen within or without that limit, whenever puberty appears. But morally according to religious injunctions postponement of cohabitation to any length of time after puberty is no doubt a sin and any sane man who has any respect for the religion of his country will attempt to conform to it. But it will be a serious hardship upon the parent or guardian of the girl to enforce the postponement of such cohabitation after puberty by enactments resulting in economic and social difficulties which will render him liable for the future custody of the girl permanently, to the detriment of welfare of both the parties who were bound by this matrimonial tie. And it is also within the directions of the medical code to have cohabitation after puberty without any lengthy postponement of the time.

Fortunately no such cases have come before the law courts, because the Hindus have been following their codes of law, sanctioned by their Sacred works. And they have not been so absolutely demoralised as our reformers now are, and it may not be far off to expect such a contingency coming into force within the Hindu society. Some stray cases might have been brought before the court, in other parts of the country, though not in south India, as a machination of unscrupulous mischief-mongers who might have found the opportunity quite auspicious for avenging upon the father of the girl, any of his worn-out enmity against him.

7. The answer for this question has been fully dealt with in our *Kalpa-druma* of the 2nd August. The idea of the Hindu marriage must first be understood before this is answered. Marriage is not a social contract in India as it is in the West. It is based on a higher conception of life in which the soul is helped to reach its goal by gradual developments and attain salvation finally. The ultimate aim of the marriage, among the Hindus following the Vedic religion, is not secular, but spiritual and moral, the preservation of the Dharma and the preservation of the race in all its purity. And in the issue of the 9th August we have shown that that Dharma is eternal and not man-made. The regulations for their proper observance are provided for in the Vedas and the Smritis; the latter only follows what the former have enunciated. Now this eternal Dharma provides the means for reaching the salvation of the spirit or soul, for gaining this purity of the race and freedom of human heart from what is known as activity (*Kartritva*) and enjoyment (*Bhoktritva*). Every one thinks that he is the active agent in all the achievements of the life and that he is the enjoyer of the pleasure derived from it. This is the modern conception of materialistic world. So long as the living human soul indulges in these ideas he cannot escape the cycle of re-births. The ideal of *Nivritti* (the giving up of all attachments to the life of the world as the active agent (*Karta*) and the enjoyer (*Bhokta*) in all the matters of importance) is the true and only ideal of Hinduism. But as such a life is only possible to the few souls in a high state of spiritual development the path of *Pravritti* (or activity) is prescribed for all others. But it ought to be adapted to the stage of development reached by the living soul and lived strictly in accordance with the laws of and conditions pertaining to each stage, laid down in detail in the Sacred authorities.

These laws of *Nivritti* and *Pravritti*—the sacred injunctions constituting them—constitute the Hindu ethical code. We have no ethical standards or tests—no “methods of ethics” founded on reason or experience—for forming ethical judgments regarding men’s conduct but we have only so many distinct rules and maxims of conduct laid down by the Indian sacred authorities. For example, let us take the case of the institution of marriages among the Hindus. We have in India no historical stages or steps of progress in marriage from polyandry to monogamy but we have the eternal and permanently valuable sacred injunctions regarding it which remain the same from age to age.

The Dharma of the Hindus is therefore eternal and immutable. Dharma does not change like modern laws with a change in the views of the ruler or pass away altogether with the passing away of the ruler imposing them. A learned English writer said “with dogged intolerance the foolish majority raises its will to the dignity of law”. The same sentiment is expressed by Mr. Serjeant Stephen in his commentaries on the English Law thus “Flushed with success they had gained (the so-called), popular leaders who in all ages have called themselves the people, began to grow insolent and ungovernable.” Similarly in the present case the social reformers who consider that they alone are the true representatives of the people, have, flushed with their success in the past and taking advantage of the inactivity of the majority who are faithful to the religion of their fathers, grown insolent and intolerable that they now want to punish those who refuse to be led by them in matters concerning the life and death of their very existence. The law in other countries had ever been changing with the change of the rulers, which ended in the destruction of the previous constitution and caused great confusion and uncertainty in the laws and antiquities of the country, that it “is morally impossible to trace out” at this time, “with any degree of accuracy, when the several mutations of the common law were made and what was the respective original of those several customs, that are at present in use, by any chemical resolution of them to their first and component principles.” We can seldom pronounce whether any particular custom was derived from the Britons, or left behind by the Romans, or introduced by the Saxons and discontinued by the Danes, and afterwards reintroduced by the Normans. The traditional laws in other countries of the world had been

accommodated to the exigencies of the time so that, though "upon comparison we plainly discern the alteration of the law from what it was five hundred years ago, yet it is impossible to define the precise period in which that alteration accrued any more than we can discern the changes of the bed of a river which varies its shores by continual decreases and alluvions." The antiquity of the kingdom and its Government alone would make it impossible "to search out the original of its laws". It is not so in the case of the rules of conduct of the Hindus. Their Dharma is not law but consists of the eternal rules of majority discovered by Rishis like Yajñavalkya and Manu in the superconscious state of "Samprajñata-Samadhi". Hence it cannot undergo any essential change nor can it be destroyed. The Rishis only elaborated in a methodical form the injunctions of the Vedas which are of supreme authority to every Hindu. Kingdoms came and passed but the rules of the Dharma remain intact. It is still to-day what it was in the days of Manu and Yajñavalkya. For, what is not contained in the Vedas would not have been accepted by the vast majority who were all men of great learning and piety. Manu himself says **सर्वोऽभिहितो वेदे** (all of

them are said in the Vedas). And commenting on the Yajñavalkya Smṛiti, Viśvarūpa, who was a direct disciple of the great Samkaracharya and lived about the six century B. C., says at the outset of his commentary that he would trace every one of the rules enunciated in the Smṛiti to its original, the Vedas. And true to his promise he traces almost every one of the rules of the Dharma enunciated by Yajñavalkya to its very source in the Veda. For, it is a generally accepted dictum that the Supreme source of the Dharma is the Vedas (**धर्मविज्ञानमनामो परम वेद इति**.) so that it is now

possible to trace the original source of every one of the regulations of Dharma and, at least, it was so at the time of Viśvarūpa. We know well that these rules have undergone no essential change in their character from what they were in the days of Viśvarūpa. What the Rishis have done is that they collected all the injunctions of Dharma enunciated in the Vedas and compared and analysed them with the local custom and put them all together arranged in a methodical manner. The later digest writers simply collected all these various practices that found dispersed in different boroughs of the country and reduced them, as King Alfred did in *liber judicialis* into one uniform work as an encyclopædia of reference. And even if any mutations are said to be noticeable, it must be plain to any thinking man that such mutations have not affected essentially the rules of the Dharma which have been preserved intact through the lapse of time, and such changes are found in the observation of certain formalities due to local or special varied customs. Dharma may advance or recede in the estimation of men, but it can never either be transformed into its opposite, nor can it altogether die. All living souls are passing through a slow process of evolution and will some day be in a position to practise Dharma. To the practice of this Dharma a legally married wife is an essential part of the condition, who is to help and assist the husband in the proper conduct of the said Dharma and is a primary functionary in the right fulfilment of the same. She helps by helping her husband in the practice of these Dharmas, the soul of both her husband and herself to a gradual development towards its goal of final salvation which is realisable through the practice of the methods advocated for that aim by the Vedas; and these injunctions prescribe certain regulation for the selection of the bride who would be the future helpmate in the practice of the Dharma. These injunctions are to be essentially fulfilled and practised if the fruits of the Dharma are to be realized in the manner in which it is enunciated by the Vedas. The failure to conform to these rules entails the husband and the wife to be casted out of the fold of the Dharma. This will bar the gradual evolution of the soul to its goal. The life of a man according to the religion of the Vedas is enveloped with a series of Dharma from birth to death. And it must also be borne in mind that a widower is precluded from practising certain Dharmas which he was perfectly entitled

to perform when he was with his wife. And conversely a widow is likewise debarred from very many religious rites soon after the death of her husband, though she has to perform certain important functions in such ceremonies for the well-being both of herself and her dead husband (in his then abode) though by proxy. Thus it will be seen that a Hindu marriage is not a social contract, as it is considered in other countries where it is only a secular affair, but a religious function taking the character of a social function also. The salvation of the Soul is not obtained by legislation. In the case of unbelievers it is altogether different. And because a certain section of advanced free-thinkers does not put faith in the sanctity of the Vedic religion and the rules of Dharma enunciated in them, it does not follow that the entire Sanatanist world should say amen to their views, and discard likewise their religion too. And it is, we must say, criminal that such of them who think they are supermen, should attempt to punish others for the faith they still retain in their religion.

Christ taught only Roman Catholic religion to the world and when a small section of people protested against that faith they expected the whole world to follow their foot-steps. But the audacity of the majority persisted in following their old religion; for, to them the words of Christ were more sacred than the vile promises of the rebels who revolted from the old practice. With the power and influence behind them these people began to persecute the heretics in the mediæval period, which forced many Catholics to flee from the country and take shelter under other safer powers. In the same way the social reformers, who are but mere protestants against the Vedic religion are now attempting to enforce their will upon the Sanatanists and impose upon them their individual views on religion and sociology by force, in this country. But the British Government is not so indiscrete as these apostles are, and would not stoop to enforce religious reform by the pen in these enlightened days of the present century, in open defiance of their solemn pledges of religious neutrality, to their Indian subjects, often times repeated by successive sovereigns. Any change, of a vital nature, introduced by legislation into the Hindu marital relations should necessarily mean a crusade against the Vedic religion, and will be tantamount to forcing the Sanatanists to change the character of their religion as well.

If we understood marriage in India in this light the consummation of marriage immediately after puberty is within the purview of the rules of Dharma; for it is attended with a religious ceremony which is an essential part of the ceremony of consummation. In fact it is, as has been pointed out already, the first ceremony performed in respect of the child that is expected to take its birth with the particular girl as its mother. To one who is religiously minded, therefore the penalty for its breach is severe and more dangerous than civil punishments though it may not be so to those who advocate even compassionate marriages in India. It entails *Patitya* both to the parents and the would-be-born progeny, which is detrimental to the healthy development of the society.

8. There seems to have been no clear idea as to what constitute "Garbhadana", and what consummation is. Garbhadana is the first ceremony which a husband performs for the welfare of the would-be-born progeny which he expects from his wife. "The non-performance of the Garbhadana ceremony will entail upon the issue born of her certain impurity" and the Smṛiti law imposes certain *Prayascitta* as a penalty for the husband who, it enjoins, should fulfil the same before he commences the next succeeding Karma, *Pumsavana*. If anybody considers himself a Vedic Hindu, he must surely perform the Garbhadan ceremony. And it is invariably practised in this part of the country. The question rather appears to be ludicrous in the eyes of the followers of the Vedic religion. What is meant by consummation coinciding with Garbhadan or coming anterior to it? The religious ceremony of Garbhadana is performed on the first nuptial day, that is the day on which the consummation of marriage as understood in the modern world takes place. Surely therefore it follows that it is performed generally after puberty. And if Garbhadana is a ceremony performed on the first nuptial

day it can never become anterior to consummation of marriage. The period of menses is considered to run through a fortnight from the day of its first appearance of which the first four days are called the menstrual period which is prohibited for the sexual intercourse of the pair both on moral and ethical and health grounds. The girl is therefore fit for normal cohabitation from the fifth day onwards. Of which for reasons of religious purity (indirectly as a means to control excessive or abnormal abuse of the sex organs and for reasons of birth control) certain days are also prohibited for cohabitation. For reasons indicated in the answer for the next question the period fixed for the coition by the common law is quite in accordance with the natural development of the girl as according to the medical science she is fit for the reception of the germinal spermatozoon which goes to impregnate the ovum. That may be at any time after the twelfth year of the girl and soon after puberty. And Susruta who also agrees in the age of puberty of a girl as being twelve, says in the chapter 10 of the Susruta that a girl of twelve should be taken in marriage for producing good and healthy children, by a youth of twenty-five. This is quite in agreement with the Smriti as well as common law and the English law. Indeed the word Garbhadana means "placing or sowing the seed (or Garbha)".

9. Puberty is the age at which the reproductive organs become functionally operative (Medical Dictionary). It occurs between 12 and 17 years of age and is indicated in the female by the occurrence of menstruation. The word "Puber" in Latin means "of marriageable age". Menstruation begins at the age of puberty (12 to 17 years).

Nature is more careful in the provision of safeguards against injuries from external sources and it is more concerned in the preservation of the respective organs and cells in their normal and healthy conditions. The attainment of puberty is sufficient indication that the reproductive organs are perfectly developed for operating their respective functions. It is a medical dictum that an organ becomes inactive by their failure to perform the proper functions at the proper time. That is, by not performing the particular function for which it is created at the proper time when it is functionally competent to operate it becomes atrophied. The attainment of puberty at the age of 12 cautions that the reproductive organs are competent to operate functionally and therefore fully developed. The postponement of consummation to any length of time beyond that must necessarily render the reproductive cells atrophied by their inaction and consequently in course of time result in the sterility of the female, or if conceived, result in a hard labour with all the serious consequences pertaining to it. The actions of the reproductive cell is altogether different from the somatic cell and therefore different from each other. Except their inter-dependence as belonging to a same body due to general metabolic activity they have no inter-relatedness in their functions. The general health of the body is controlled by the activities of the somatic cells, which furnish nourishment for the several organs of the body. Though the reproductive cells possess also the materials for the general building up of the tissues of the reproductive organs, its function as a reproductive one is its primary function which, if become artificially controlled or restricted, would seriously affect the health of the girl and expose her permanently to the dangers of modern society and make her a prey to the devils of destruction, to the detriment of both her individual and the community. It renders the woman sterile for her life. The health of the progeny is not preserved, for all time, by the potency of the reproductive cells and even if the age of consummation is postponed it is not preserved eternally by the cells of the reproductive organs, nor was the child insured for it when it was confined within the womb of its mother during the period of its pregnancy. How can the mother be held responsible for the indiscretions of the child when once he is delivered from his abode in the womb. Of course the vitality of the progeny may to some extent, be held to depend upon the vitality of the mother. But the centre of her vitality is not in the reproductive cells, but lies elsewhere. This is evident from the fact that girls who get themselves married very late in

life and those who are barren throughout their life do find themselves prostrate and weak notwithstanding the absence of early child-birth in them. The vitality of the mother is impaired and completely damaged in these days not because of early consummation or early child-birth but by the irregular and unrestricted habits in life due to various other causes not peculiar to this country alone. Even supposing that the consummation is postponed until such time as our modern fads are gratified there is no guarantee that the girl and her progeny are immune for ever from the evils that are so vividly painted and broadcasted in scaring phraseologies by the advocates of socio-religious reform in India. We have seen several sterile women suffering from diseases of various kinds, while those who have given births to several children are free from them. Health and disease do not therefore absolutely stand in any relation to consummation or puberty. Further, if consummation of marriage should be the deciding factor of the health of the women we should have the Western world free from any disease peculiar to the fair sex. If abortion, syphilis, gonorrhoea and other venereal diseases should grow appalling in the United States of America and Germany, not to speak of the English nation, there is no further proof required to show that consummation of the marriage and the preservation of health have no direct relationship whatsoever. And the story of children dying in hundreds of syphilis under the age of one is positive proof that the postponement of the consummation is absolutely undesirable and dangerous.

Supposing that the age of consummation is thought to be raised, how long after puberty it should be? What is the criterion to decide the full physical development of the girl? Do not girls of 21 who under the civil law are considered to have arrived at their full age, get disease and become unhealthy and weak with short-lived progeny? It is absurd to ignore the natural and constitutional evidence of the specific organ, of its capacity to functionally operate and fix arbitrarily a conventional limit.

10. The question itself requires some elaboration. For competency to give intelligent consent is a vague term. And if it should be with due realisation of the consequences it is possible only when she attains her full age. That age varies according to different nations and circumstances, and conditions of life pertaining to the special features of the society. Among the ancient Greeks and Romans, women were never of age, though the period of full age was by the efflux of time fixed as twenty-five in the case of both the males and females. And the English law afterwards fixed it as twenty-one as the age of majority. The fixing of the age of majority is purely an arbitrary one which was fixed by the constitutions of the different kingdoms at different times at different ages. There is thus no unanimity between any two nations in the world and could never be, though for all practical purposes each one has of its own arbitrary will provided an age for civil purposes. By the Statute 18 and 19 Vict., c. 43, a female of 17 years cannot of her own free will effect a valid and binding settlement, without the sanction of the Court of Chancery, of personal estates in contemplation of marriage. Thus in the present case if the girl should be competent to give an intelligent reply (consent) she should be of her full age, i.e., twenty-one when alone the law understands that she will be able to realise the consequences of her actions. But the English law provides that at twelve a female may consent to marriage, though in that age she was still considered as an infant in the eyes of the law. A law that provided an age for the consent of marriage should have considered that at that age she was perfectly competent to give her consent for cohabitation also, as marriage in the sense in which it is understood in Western countries presumes cohabitation as well. It is well to rely on non-conventional limits—as the impulses and the sensitive demands of the cells—than rely on conventional limits provided arbitrarily by the law at the fancy of the individual faddists. If at the age of puberty she is competent to give her consent for marriage she is perfectly competent at that age to give her consent for cohabitation. That is the presumption of the law in England and other so-called modern civilized countries. And we have shown that cohabitation with girls of eleven years and even below that

is quite common in America, Germany and other advanced states and passing on without any stigma; it is also within the knowledge of all accredited investigators in all the countries of the Western world that the increase in an abnormal degree of professional prostitutes is due to the long interval of time that elapses between the age of maturity and marriage. And it is also the opinion of eminent doctors in those countries that the abnormal increase of venereal disease is in direct proportion to the increase of prostitution, public as well as private or secret. Its first appearance began in the fifteenth century and the fifth act of its drama is now in progress; and its effects are now being keenly felt everywhere. It has grown appalling within this short time and has been carried into all countries where it was till then unknown. To India it was brought by the Portuguese in the sixteenth century, where it was unknown before that date.

11—12. It has been shown in the issues of the *Kalpadruma* that maternal and infantile mortality have no bearing to the consummation of marriage after puberty and that they are very heavy in countries where late marriage is quite normal. From the great Rishis downwards to the present generation the Brahman community claim to be the progeny of the so-called early married girl-mothers and we have not suffered the least either in our intellect or our physical development. The giant intellects like the late Surendra Nath Banerjee, B. G. Tilak, Sir Subramania Aiyar and others of the past generations were all the issues of the early married couples. And it cannot be assumed now that the world has changed within the last few years. The warriors of the Mahabharata War were likewise the children of such couples. Sivaji was the child of an early married couple. Facts do not prove what has been presumed in these two questions, though imagination may do so. For it can be made to do anything in the world. The question will only be proper when the world was free from these evils and India alone suffered from them. If the world outside India suffered from these evils what is it due to? In view of what has been said in the *Kalpadruma* on these points it is needless to repeat the same here.

13. There has been no opinion at all on this point. The law had been simply a dead letter in the Statute Book as so many other laws are. The Widow Remarriage Act was in the Statute Book for so many years and how many have taken advantage of it till now. And what has been the public opinion about it? It is there only to satisfy the imagination of the pioneers who sponsored it. Likewise it is that this Act had been a dead letter. Is there any common sense to bring in an amendment now when the law has been amended once only two years previously? What would have been the experience of the advocates of such an amendment within the short period, except vindictiveness against the orthodox community? It is a sufficient period to study the experience and effects of a legislative enactment, in any part of the world. And above all the inequity of the interference in marital cases is quite unjustified and inexcusable.

14—15. This is a delicate question to be answered. The members of the committee are all men of experience, and they must know what the mind of the womenfolk is or would be, on this item. Sir Moraphant V. Joshi himself, the chairman of the committee as a Hindu born of early married mother, must generally be able to study for himself the psychology of womanhood. The experience of modern world reveal much in this matter. It may be an eye-opener to the members of the committee itself. Where there exists a free license for the girls to do what they liked in matrimonial affairs according to the dictates of the impulses of the mind the condition is not better off. That will enlighten us as to how the girls would feel in respect of their sexual gratification. It is but natural that when the reproductive organs become ripe for operating functionally and which occurs at the first onset of puberty (at the age of twelve generally and which happens even at the age of eleven in majority of cases as pointed in the answer to question No. 3) the girls must automatically relish and rear up an ambition to the gratification of their biological and carnal desire according as their mind dictates, in a free and unrestricted manner. If that is conceded and the responsibility

of the parents to direct their children in a righteous path is also agreed, there is no need for the disputing of the fact that the mothers would favour an early consummation of their youngsters so that they may not go astray for the negligence of their parents. Women were as well had been children in their age and must know the hearts of their children instinctively, and they would naturally expect their children to enjoy the fruits of womanhood at the earliest opportunity as it presented, as they themselves had had the same in their age. That it is a danger to restrict by penal legislation the natural and physiological instincts of womanhood to the society is well revealed in the present conditions of the modern world and above all if you concede that there is a religious significance, as it is not opposed also to the medical and biological considerations of the womenfolk, in the ideal of the marriage obtaining among the Hindus, and if you concede that it entails spiritual disabilities both to the parents and the children, it is not unnatural that the mothers should expect the early consummation of their children if the parties concerned in the affair truly believed in the Vedic religion. We are not speaking of those who declare that they have no faith in the sacramental character of the system of Hindu marriage, nor of those who affirm that theirs alone is the true interpretation of the Dharma and its regulations.

The determination of age by speculation by men who are outside the sphere of direct knowledge and intimate relationship has everywhere been a failure and we have seen that no two doctors agree in any respect. In the case of the marital cases if the law is not repealed and expunged from this section then the production of the horoscope should be held as a sufficient evidence in the determination of the age of the girl. If it is considered that that is not a reliable evidence and therefore held to be invalid then the girls' own statement taken upon the oath must be held conclusive; but this may in malicious prosecutions be a danger to the accused who will always be in a disadvantageous position; care must be taken that no unnecessary influence is played upon by the prosecution. If this could be held unreliable and unsatisfactory surely the medical certificate must share the same fate. In respect of non-marital cases the evidence of persons who might be in close knowledge and acquaintance of the girl and her antecedents must be taken to be conclusive where the certificates of age vitally differ from the natural evidences, as horoscopes, statements of parents, etc.

16-17. Why should we limit the Age of Consent to fourteen years? It is also within the borderland of dispute. Why not at a stretch the law could be amended as to be in conformity with the law in the Western countries and repeal the Hindu law in toto by the supplanting of the English law? That should be the basis of legislation for the authorities if they desired to gratify the wishes of their turbulent foster-sons. That will remove much of their discontentment and the society could be made to flourish on a par with the Western society. Such a bold and drastic legislation would save all the trouble and inconvenience of both the Legislature and the people. But will it be wise to enforce a social system upon a people who are absolutely strangers to such a society, against their will, simply because a certain section of a community wanted to break the social law of the country? If the Age of Consent had been raised to the age of majority, i.e., 21 years, would it solve all their imaginary difficulties? If at all, the Age of Consent is thought necessary to be raised, then, it should be so raised as to conform to the age of development or growth. A girl is supposed to attain or complete her full development by her twenty-fifth year, the period of normal complete development. Only at this age she is held by modern medical men to complete perfectly her physical development. Her functional organ must as well be capable of operating successfully only when it is perfectly developed (at 25). She will be mature both in her moral and spiritual instincts only at this age when alone she will be capable of realising the consequences of her actions. There is no sense therefore in halting half way and restricting the Age of Consent at any time below the age of 25. It should be the aim of the authorities, if they desired to introduce socio-religious reform by

legislation, to penalise all marriages before the age of 25 both for boys and girls and make it a capital crime. What is the fun of having such piece-meal legislation as this? What sense is there in raising the age to 12 in 1891, to 13 in 1925, to 14 in 1928, to 16 in 1930, to 18 in 1932 and to 21 or 25 in 1934? There is thus no finality whatsoever. Nor is it warranted by experience or fact. It will only show that the promoters have no case at all except their vindictiveness against the religion and society of the Vedic Hindus. It is ridiculous on the face of it unless it be the aim of the supporters of the Bill to demolish the Hindu Society. In a country which is economically poor and where the conditions of the middle class people is worse than an ordinary poor man of the past century surely it must bring on untold sufferings to him, as physical, mental, economical, spiritual, and what not. What it is to one who is determined to commit rape if the Age of Consent is 14 or 21, when he is bent on gratifying the carnal appetites of his sex organs. He does not do it with the knowledge of the consequences arising out of his crime. And even if he be conscious of it, he is overpowered by the impulses of his sexual desire rather than be controlled by the law which imposes on him civil punishments. The biological impulse is powerful than the mental reasoning which is at a disadvantage with these men. And when the proposal comes from the other sex who are in no way free from their sexual impulses and who get at it earlier than the boys who are to be punished for their indiscretion, no common man will be able to resist the temptation unless he is spiritually advanced and is able to control the senses. In such cases the English law presumes that they are equally guilty of the crime though they may escape the law under the cover of innocence. The development of modern idea of marriage in the Western world and especially in America holds that it is no crime to have illicit intercourse with even minor girls of below age (i.e., 21 years), as soon as they had attained their puberty, provided they are free to take any other, who, for the time being, happened to be agreeable to her, the underlying principle being "that I have a right to make my own mistakes." They hold that promiscuous intimacies with boys is no sin and many do now-a-days live in pre-nuptial relations with one or many of their classmates, and which they now demand should be made legal. The early arising of sex instincts is the cause for these mischiefs. While such is the enlightenment in the Western world the law making it an offence in India for a husband to live in sexual relations with his legally wedded wife even after she attained the age of puberty, is immoral and inconsiderate. The best course therefore for the reform enthusiasts and the authorities that lend support to them would be to legislate upon nature and take an injunction against girls that they should not get puberty before they attain to the age majority; that would save the world much of these legislations, worries, and rancours. I would therefore propose that the law should make a marital case no offence under this section if it should be the consideration of the authorities that the difficulties of a poor class man must be removed at all.

18-19. From what has been said above it must be clear that marital cases should be altogether removed from the scope of the law under this section. The society does not want that unnecessary imposts should be laid upon them by the promiscuous interference of the law in social matters. The authorities must understand that if perchance they are determined to enforce such an impost in socio-religious matters, against the will of the majority, they will only be creating additional discontentment and hardships and causing fresh dangers to the solidarity of the Hindu society and introducing unforeseen calamities into the otherwise happy Hindu family. It is not a political subject for adjusting themselves to the exigencies of the times. Surely they have got a right to protect the faiths of such people who refuse to be led by certain heretics in the same way as they feel it an obligation to help the reformers in gratifying their fads and fancies. As the highest tribunal of the land, which holds the fate of Hindu society and religion in balance, the Government will not be justified in joining hands with particular parties whose only aim tends to end solely in malicious persecution of their dissentients and accept all their dogmatic assertions

and misrepresentations as absolute truths and nothing but truth. In a case where they ought to hold the balance even, it is a pity that the advice and appeals of the custodians of the Vedic religion are ignored and allowed to be submerged in the tremendous uproar of a few obscurantist reformers. It is an irony of fate that the authorities allowed the passing of legislations on socio-religious matters in the teeth of orthodox opposition, during the past half a century, in contravention of their pledges of religious neutrality. He alone will feel where the shoe pinches who wears it and those who are supermen cannot be expected to realise how the majority feels or what they really suffer from. Section 376 makes no difference between marital and non-marital cases in the awarding of punishments. It is far more harsher than the English law. The punishment under section 376 is more akin to the Jewish law of the old days which made it capital to rape upon a damsel who had already been betrothed to another man. There was some sense in that law too which made the ravished girl to be the wife of the ravisher and compensated the father of the girl with 50 shekels realised as a fine from the accused. By 24 and 25 Vict., c. 100, s. 48, the English law imposed a punishment of not exceeding two years with or without hard labour, as the minimum. The maximum under the English law is found to be penal servitude for life or imprisonment for any term not less than five years. This is, of course according to the magnitude of the crime. But the penal code punishes this crime with transportation for life or with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine. There is a wide difference between the two laws, and when you take into consideration the case of married couples being made equal with an extra-marital one and fixing it on a par with it the inequity of the Indian law will be quite apparent to even a superficial observer. When the reformers who claim liberty and conscience for every body in all affairs of worldly consideration without any distinction should deny the same for the majority who disagree from them in all matters whether political or social or economical or religious it is high time that the Government should exercise their right of veto and make the law to be in consonance with the law in England and exclude all marital cases from the purview of the section 375. The minimum punishment should be fixed to two years only. It is a vague term to say that it may extend to ten years, for it leaves the accused at the mercy of the court. And the maximum punishment should likewise be reduced to five years as it is in the English law in non-marital cases. The procedure to be adopted in extra-marital cases—I say extra-marital because the marital cases ought to be absolutely eliminated from this section—should be the same as it is obtaining in the English law; and the law making human-being equal to brutes is unfair and unjust. The term "illicit married intercourse" is a ridiculous and meaningless one. If the intercourse be between a married couple how can it be illicit? If by the term illicit is meant, an action which contravenes the provision made under the law, then that is not the term to be used for it. This term on the contrary, conveys quite a distinct significance. Whatever it may signify, it is absurd to make it a penal offence to have intercourse with a legally married wife. While the society in the New world is clamouring for legislation of illicit intercourse by youngsters with one or more individuals of school-going age, while yet below 11 and 12 years, it is strange that the Government of India should contemplate now to amend the law by penalising even marital intercourse between a legally and religiously wedded husband and wife, until the age of 14 years. Neither commonsense nor experience of the world dictate the adoption of such drastic measures in the marital relations, simply for the sake of gratifying the fancies of individual faddists, which no law of any nation, would contemplate or tolerate.

20—21. Both of them are against the view of the people as it has all along been remarked herein. Penal legislation for marital cases is an immoral one unless it be for the wrecking of society. The minimum age for marriage has been fixed by the Smriti law and there appears to be no need for fixing any other one. The law in India has accepted the Smriti law in deciding matters concerning the Hindu Society and it should only embody

the age fixed by the Smriti law in the penal code. We do not know what is the object in view, referred to in the questionnaire. We don't see any valid reason produced by the sponsors of the Bill as to the urgent necessity for bringing in such a legislation. What all they say is that the entire infantile mortality and maternal mortality is due to early consummation and that the race deterioration was due to child marriage, a phantom created by the advocates of the Bill and foolishly and blindly followed by the so-called educated community without making any deep study or enquiry into the subject themselves. These wild, baseless, imaginary, false and irresponsible accusations and insinuations have often been exploded and yet they are being clung to, leech-like, by the superstitious political and social workers who, being obscured in their vision, see nothing around them except in a magnified and diseased form, and advertise the same, with all the zeal of a new convert, in scaring catch-words, bold head-lines, emotional and sensational phrases. Unsubstantiated assertive statements cannot be made to do the duty for hard facts and reasoned judgments. These misleading statements have been proved to be false and baseless in the issues of the *Kalpadruma*. The sponsors of these revolutionary measures are themselves the progeny of early married mothers and must certify themselves to the deterioration of their own self. Experience shows that instead of being deteriorated they are ever active and busy, brisk and perverted, and tenacious and bigoted. The practice of early marriage is, as has more than once been said above, is current only among the Brahmans who form a small portion of the total population of India. If race deterioration and economic bondage and political serfdom should be attributed to early marriage and early consummation surely the reformers would be compelled to admit the staring fact that the other 96 per cent. of the population are no entity; it will be tantamount to saying that the entire population of India, including Christians and Mohamedans have no stake at all in the country. If that be so then the decrying of the Brahmans by the other communities shall have no significance; and they should have no grievance at all. That is a position contrary to bare actualities. These 96 per cent. of the population are strict followers of post-puberty marriage and cannot hence themselves suffer any deterioration; neither they could allow the nation to deteriorate by the influence of a 4 per cent. Brahmans. The dynamic force of the potency of the customs of 96 per cent. of the Indian people should be sufficiently strong to neutralise the influence of the custom, peculiar, to the Brahmans. If, instead, the majority gets neutralised by the minority it will only demonstrate that the virility of the energy of the minority is inherent and based on unshakeable but sound principles. If then the Brahmans are determined to die of immolation surely they must be allowed to deteriorate and die a natural death, that they may not be a bar to the progress of the rest. It is not wise statesmanship to waste one's energy in the so-called reclamation of a minority community which richly deserves to be massacred for its indiscretion and perseverance, and when that body is dead against such innovation and keenly resents all external interference. Common sense would not even admit that the fault of the minority had been the sole cause of the break-down of the majority. Nor could it be said that the sin of the minority circulated through the veins, in a gangrenous manner, within the society of the majority. For, it is against the bare truth. Notwithstanding the continuance of the practice of early consummation and early maternity among the Brahmans for over 5,000 years the other 96 per cent. is still persisting in their own customs and traditions. Race deterioration is not therefore the result of early consummation or early maternity. But they are due to the changed conditions of the society. Promiscuous eating, irregular habits, uncelibate life, city living, hotel system, want of nourishment, economic poverty, enforced luxury, excessive, unrestricted and uncontrolled sexual life, abuse of the functional organs, workless and easy-going life, the failure of agriculture, consumption of milled rice, administration of artificial and preserved foods, insanitary overcrowding in cities, unhealthy and unnatural diets, failure of the monsoon, destruction of the forests and pasturage, injections of unwholesome septic poisons into the system,

industrialisation, unemployment, insufficient wages, displacement of cottage crafts are some of the causes that contribute to the low vitality and degeneration of the present day younger people. To tag these faults of individuals to the shoulders of an innocent institution is not common sense or intelligence but blind faith dictated by perverted absolutism. Supposing the marriage institution of the Hindu Brahmans is penalised up to the age of majority, will it be a panacea for all the evils that India is suffering from; will it be a magic wand that would turn the hell of India into a Heaven? Will it bring on economic salvation? Will it bring on political emancipation? Will it bring on spiritual salvation? Will it bring on absolute immunity from every kind of disease? Will it reduce poverty? Will it give physical advancement? Will it make patagonian? This is not supported by true fact. India could have achieved all these in spite of the Brahmans. From Peking to California the human race is deteriorating. It is not due to early marriage or early consummation. What is true of the world is also true of India. Material advancements as the above are obtainable neither by the prevention of child marriage nor of early consummation.

The English law considers pre-puberty marriage also as valid in the eyes of the law, as the post-puberty marriage. It declares that an ante-nuptial settlement made on "what the law deems a valuable consideration, viz., the future marriage, cannot be impeached even by those to whom the husband was indebted at the time, but is binding against all the world. A post-nuptial settlement on the other hand is in general considered as voluntary, that is, as made on no valuable consideration". It says that an ante-nuptial settlement is made in consideration of future marriage. The term "ante-nuptial" should not be understood in the sense in which it is understood in the New World. It is used as an apology for covering the crime of illicit sexual relations by school-going youngsters before marriage. But the law never countenanced any such relationship as legitimate. By ante-nuptial, it only understood the relationship in its legal sense, as approved by usage and sanctioned by the spiritual and moral laws. It cannot be expected to legalise excesses and abuses. Only normal practices are recognised in law. Since marriage, in its natural sense, in Western countries, presumes cohabitation as well, ante-nuptial relationship will only mean that which precedes marriage in its legal sense but devoid of nuptial relations or cohabitation. For, the term post-nuptial in the next sentence definitely indicates that marriage in its legal form and cohabitation are concurrent; and that the term nuptial refers to them in their combined sense. This ante-nuptial relationship may be before or after puberty. Post-puberty ante-nuptial relation is quite a normal practice in Western countries. But the law here makes a provision for ante-puberty ante-nuptial settlement. For it makes such a settlement binding on the husband against all the world though he was indebted to others at the time. Indebtedness cannot mean a prior engagement. Indebtedness must be based on some substantial considerations, to be proper. It is plain therefore that, when the law finds it legal for a girl to give her consent for marriage at the age of 12, the ante-nuptial settlement, referred to here, cannot be taken to mean post-puberty ante-nuptial instance. And in the case of boys, the law makes a provision for them for entering into matrimony at the age of 14. It is quite within the bounds of law therefore for a boy and a girl, in their minimum age, to enter into matrimony. And it is equally within their rights to make any settlement in consideration of future marriage. Marriage of persons under seven was at a time quite common; but it was held a nullity by a later statute. Though the English law fixed a minimum age for boys and girls, for marriage, it provides an exemption for them for entering into matrimony even below the age of 14 and 12 respectively. But it only holds that when either party, on coming of age (i.e., 21) disagree, may make the marriage void; they may, if they agree to continue together, consider their marriage as well made and it is quite valid in law. They need not marry again. This, of course, does not refer to post-puberty marriage. Parties to such ties are perfectly entitled to make pre-nuptial settlements. In such cases, it is made

with the consent of the parent or guardian. These statements therefore, read together, confirms that, the pre-nuptial settlement countenances only a settlement by a minor in consideration of a future marriage. This is something like what we call a betrothal ceremony. As, in the case of a marriage after majority or puberty, marriage presumes also consummation, there need be no pre-nuptial settlement. It may appear to be a far-fetched interpretation; it may also be held that the settlement referred to herein relates to one by a major to a girl of age or *vive cerat* in view of future marriage. If that were so, the law might as well have said ante-marriage settlement instead of ante-nuptial. For, as has been said, it presumes marriage to be attended with cohabitation or nuptial; and to make a difference here it says ante-nuptial. It means that the ceremonies to be performed in connection with marriage have been duly carried out and that the nuptial alone remains yet to be completed. And the settlement made here is done after the ceremony of marriage is duly performed. Hence it says ante-nuptial as apposed to post-nuptial. And it does not prevent taking such a presumption, even though it is otherwise.

The strengthening of the penal law is unwarranted and unjust as it is immoral and unwholesome. The Government is not the medium for social reform. Nor is the council chamber the place for it. The recent controversy on the New Prayer Book measure in England must be an eye-opener to the members of the committee. A legislature which is composed of various communities and castes and many who are outside the pale of Hinduism is not a competent body to regulate on religious matters affecting the Brahmans. Nor is it competent for a socio-political body to legislate upon spiritual affairs. Legislations by individual faddists are bound to prove transitory and vindictive and therefore detrimental to the solidarity of the society. There will be no finality about it, as every such legislation, when passed in the teeth of opposition presumes unfavourably a repeal closely on its heels. Is it worth alienating the sympathy of an unoffending religious people and bring on to them manifold sufferings as, physical, social, economical and spiritual and moral simply to buy off the howling of a few irresponsible heretics who would neither accept the traditions of the Sanatana Dharma nor conform to its rules but will only do harm to the followers of the Vedic religion and thus wreck the Hindu Society and the Sanatana Dharma.

Oral Evidence of Brahma Sri K. G. NATESA SASTRIGAL, Editor, "Kalpadruma," Senior Physician, Venkatramana Dispensary, and Professor, Ayurvedic College, Mylapore, Madras.

(Madras, 22nd November 1928.)

Chairman: Are you the editor of 'Kalpadruma'?

A. Yes.

Q. You are also professor in the Ayurvedic college?

A. Yes, in the Venkatramana medical school.

Q. Is it a recognised school?

A. Not recognised by the Government.

Q. You refer to the right of individuals that accrues to them by marriage amongst Hindus. What is that right?

A. Religious rites. As soon as a man or woman gets married they are allowed to perform certain ceremonies.

Q. According to you the present law is an encroachment on the rights of married men. What is your conception of those rights which are being encroached?

A. You are now prohibiting me to join my wife immediately after puberty which is a right that has accrued to me from the Shastras. The right of approaching my wife immediately after she attains puberty comes to me by the Shastras.

Q. Is there any injunction that a husband cannot go to his wife before puberty?

A. There is.

Q. Will you quote the text to us?

A. I cannot give the text immediately.

Q. The right to go to the wife after the first menses is mandatory or recommendatory?

A. Mandatory.

Q. Consummation must take place within 16 days of the first menses.

A. Yes.

Q. Are you a Brahmin?

A. I am a Tamil Brahmin.

Q. As regards the Garbhadan ceremony what is the practice among the Brahmin communities here? When does it take place?

A. In nearly 25 per cent. of the cases it takes place within 16 days.

Q. And in the rest 75 per cent. when does it take place?

A. Within a year or so. It depends upon the economic and physical condition also.

Q. You mean the health of the girl and the boy.

A. Yes. There may be fever.

Q. You don't expect fever to last for two years.

A. There may be some stomach trouble or some other disease requiring postponement of consummation.

Q. Do you think in all these 75 per cent. cases there is a good reason for postponement?

A. Exactly.

Q. One of the reasons you think is the other party's having to give some money to the bridegroom.

A. In a very few cases it may be.

Q. Do you object to legislation on these matters?

A. Yes.

Q. On what grounds?

A. It interferes with my religious law and it is a matter entirely concerning the society and the society must adjust itself to it.

Q. Do you mean the Brahmin society?

A. Yes. The society has a right to adjust itself and the State has no right.

Q. In what matters?

A. In matters affecting the welfare of the society.

Q. You mean the State has no right to interfere in matters affecting the welfare of the society.

A. I mean in social matters.

Q. And in religious matters?

A. In religious matters it has absolutely no right.

Q. Do you consider this to be a social or religious matter?

A. It is quasi religious and quasi social.

Q. Do you like that consummation of marriage should be postponed in the interests of Brahmin community?

A. No, I don't think.

Mian Md. Shah Nawaz: You don't want any reform?

A. No. I am bound more by Shastras than legislation.

Chairman: Is the study of the Vedas obligatory on the Brahmins?

A. It is.

Q. What percentage of Brahmins study the Vedas and what percentage do not?

A. In the villages majority of the boys study the Vedas. I am speaking of Southern India.

Q. All the four Vedas?

A. Not all four.

Q. And in the cities?

A. Those who take to English Education even they have got some knowledge of the Vedas.

Q. What is the minimum laid down by the Shastras as regards Vedic study?

A. No minimum has been laid down. For the performance of certain religious ceremonies certain Mantras are necessary and to that extent they study.

Q. Is that all that is enjoined by the Shastras?

A. They enjoin that the whole Vedas must be committed to memory by rote.

Q. But how many people in the cities do that?

A. As for the cities, I am sorry, the percentage will be limited.

Q. In your own family for instance how many have studied the Vedas?

A. My brother has studied, I have studied, my child is yet very young and I am going to put him to school for the study of Vedas.

Q. There is time enough yet to consider?

A. Yes.

Q. You have said there is no such offence as rape by husband in England.

A. That is what my Vakil friends have told me.

Q. Do you know when do the marriages take place in practice in England?

A. I am told it generally takes place after puberty, but before puberty marriages also take place. That is what I am told about England and other Western countries.

Q. Who told you that?

A. Immediately after puberty they do take place.

Q. No. Do you know what is the usual practice?

A. It is now rising to above 16 or 18. But by law marriages above 12 are not prohibited.

Q. But what is the practice?

A. I have not gone to England. I have been told that the age is rising to 16 or 18.

Q. Has it not been always so?

A. It has been for the last 10 or 20 years.

Q. Before that was it less?

A. Yes. Even now I have been told many marriages take place before 16.

Q. Are you aware of the fact that if consummation of marriage is not performed within 16 days, there is some Prayaschit laid down?

A. Yes.

Q. What is the Prayaschit?

A. *Kushmund Home* is to be performed which is a Home performed by reciting mantras discovered by Rishi Kushmund.

Q. Do you know that there is such a Prayaschit as 'Pranayamshatam'?

A. Yes, there is.

Q. For *Bhruv Hatya* is there *Pranayamshatam Prayaschit* provided. The *Prayaschit* must be a severe one. Judging by the smallness of the *Prayaschit*, the *Kushmund Home*, don't you think it is a small sin?

A. I don't think so. *Shankaracharya* has explicitly said there is no greater sin than *Bruna Hatya* and no greater good than *Ashomadiya*.

Q. Everyone will eulogise his own religion. But you admit that *Prayaschit* is laid down whether it is big or small. If the *Home* is performed you will be satisfied. You won't look at it as sin any more?

A. No.

Q. Is there some provision for marriages that have taken place after puberty? Is some *Prayaschit* laid down after which a valid marriage can be performed?

A. Yes.

Q. What is that?

A. For each period some cows are to be given and cow's milk must be drunk and after that the *Kushmund Home* must be performed.

Q. If that *Prayaschit* is given, there will be no sin left?

A. In the light of *Shastras* no sin will be left if he genuinely performs it but in the eyes of society the sin may remain.

Q. Are there any offences laid down by the *Smritis* which have no *Prayaschit*?

A. I don't think there is any such offence.

Q. There is no sin which is not expiable by *Prayaschit*?

A. Even for the murder of a *Brahmin* there is a *Prayaschit*. But there is one thing. There are certain sins where even if the *Prayaschit* has been performed the society will not mingle with the man.

Q. That must be against the *Shastras* then?

A. No.

Q. Do you mean to say that if I commit a sin and I perform the *Prayaschit* the sin will not be expiated?

A. So far as the society is concerned, it may not mingle with the man.

Q. But they may not mingle with the man even now. That is a purely voluntary act.

A. If a *Sanyasi* comes down from his highest pinnacle and commits a sin, his sin will always remain whether he performs a *Prayaschit* or not. This is what *Boldvan* says.

Q. This is about a *Sanyasi*. Do you think that this rule is applicable to the pre-puberty marriage injunction and injunction about consummation within 16 days of the appearance of first menses?

A. A *Sanyasi's* sin cannot be expiated. I don't think it applies to other men also.

Q. Are you prepared to accept the authority of *Shushrat* and *Charak* who say that a girl cannot be a safe mother before she is 16 complete?

A. I am an *Ayurvedic* practitioner and I am also a professor but I do not know what *Shushrat* says. Will you please quote the *Shloke*?

The *shloke* which meant that if consummation takes place before 16 and a child is produced the child will not survive and if it survives it will be a weakling throughout was read—

The witness read a *shloke* which meant that 25 years old man should marry a girl of 12—

Q. But that does not mean that consummation should take place immediately after marriage. You admit that for consummation the age is 16 and 24.

The witness quoted another *shloke* which meant that menstruation begins at 12 and ends at 50 and that the man must approach his wife during menses if he wants a son.

Q. But that does not mean that the man must approach his wife at the appearance of the first menses. It only means that if he wants a child he must approach during menses. If it means what you say how do you reconcile the two *shlokas*?

The witness construed the word 'anantavala' occurring in the *shloke* to mean below 12—

Dr. Beadon. In exceptional cases the girl may attain puberty at 11. Do you think she will be fit for consummation at 11?

A. No. She can wait for one year. There is no harm in that.

Q. You say consummation should take place within 16 days of the appearance of first menses. The girl will generally attain puberty at 12. Do you think that a girl attains her full physical growth at that age?

A. No.

Q. At what age then does she attain her full physical growth?

A. According to Sushrat it is 25, and 30 according to some other authorities.

Q. Supposing a girl attains puberty at 12. You admit that reproductive organs and the pelvi bones are not fully developed at that age. Do you think that it is right that consummation should take place at that tender age? Is it right that she should have the strain at that age?

A. No harm has accrued till now.

Q. Supposing I tell you that we have examined the statistics of several hospitals where 5 to 6 hundred labour cases are treated and have found that under 16, 50 per cent. abnormalities occur would you then say that there was no harm?

A. I do not rely upon the conclusions drawn from the statistics of a hospital. I have got my own experience which is as good as any other man's.

Q. What is your experience?

A. Girls of 11 have become mothers, girls of 12 have become mothers and they are alright.

Q. You don't rely on the statistics of hospitals: On what would you rely then?

A. I would rely on statistics collected from every village.

Q. Then only you can draw any conclusions from statistics. If in a particular hospital about one thousand labour cases are treated you can't draw any conclusions from that?

A. No. Counter statistics can also be given.

Mrs. Nehru: You said if a girl attained puberty at 11 there was no harm in waiting for one year after the attainment of puberty. Will not in that case the religious injunction that enjoins consummation within 16 days of the attainment of puberty be broken?

A. Some Prayashchit must be made. The general accepted view both of the *rishis*, the *Smriti* writers and the medical authorities is that the earliest age at which menstruation begins is 12 and if some cases occur before 12 it must be something very irregular.

Q. Are you prepared to look at this question from any other but the religious point of view?

A. Yes.

Q. Are you prepared to look at it from the health point of view?

A. Yes. I am a practitioner, I cannot but look at it from the health point.

Q. How many years' practice have you got?

A. 17 years.

Q. During your 17 years' practice have you not met a single case where a girl of less than 16 has suffered on account of early consummation?

A. Not one case I know of.

Q. Do you find that the condition of the Brahmin girls is perfect?

A. In villages it is perfect, in towns it is not.

Q. Is there any difference in the marriageable age of girls in towns and villages?

A. There is some difference. In towns marriages take place late and in villages they take place early.

Q. And therefore you conclude, I suppose that the village people are healthier on account of early marriage and early maternity.

A. Early maternity has nothing to do with health in villages.

Q. Would you say that it has something to do both in towns and villages but in villages there are other circumstances which nullify that effect?

A. I would not say that.

Q. You mean to say early marriage is not the cause of physical deterioration?

A. It is not.

Q. Is it one of the many causes?

A. I can't say. Every case must be examined.

Q. Do you think it is one of the contributory causes at least? That is all what is claimed.

A. It may be one of the contributory causes.

Q. What will you say from your experience?

A. I will say it is not.

Q. Do you think you can look at this question from the point of view of education of boys and girls both secular and religious?

A. I am prepared and we are doing it.

Q. Doing it in what way? Are the girls taught?

A. They are taught Sanskrit.

Q. In how many cases out of a hundred?

A. Every village has got a Sanskrit school.

Q. For boys?

A. For girls.

Q. Do you mean to say that village girls know Sanskrit?

A. They know.

Q. In villages can girls understand Sanskrit?

A. Yes, they do.

Q. You say it is common in villages.

A. Among Brahmins.

Q. Upto what age do they read?

A. Till they go to the husband's house.

Q. Upto what age I ask?

A. Upto 14.

Q. Even after the marriage has been performed?

A. Yes.

Mrs. Nehru: Why is Brahmacharrya for 24 years enjoined for boys.

A. It is only by that time he will be able to finish the studies.

Q. While you recognize a girl's right of acquiring knowledge do you think that she will be able to acquire the knowledge without time?

A. The question of the girl is very different from that of the boy. Before marriage the girls learn at their father's house and after marriage they learn at their husband's house and therefore there is no hindrance to their studies.

Q. But with babies in their arms is it possible for them to acquire knowledge?

A. It is with babies in their arms that our grandmothers acquired knowledge?

Q. Are those grandmothers learned in ancient Shastras?

A. I want to know what do you mean by ancient Shastras. They have learnt as much knowledge they have heard. They will be able to read and write.

Q. Then whatever education the women have got, at present is sufficient in your opinion and more is not required.

A. They don't want. It is injurious to them.

Q. Are we suffering from physical and intellectual deterioration?

A. I don't know whether there is deterioration or not.

Q. I want to know whether in your experience you have found Hindus suffer any deterioration at all and if so what are the causes?

A. The modern way of living is the cause for this.

Q. Is there physical deterioration in villages?

A. They are all right. There is no deterioration in the village life. In the cities there is deterioration.

Q. Will you tell me what are the causes for this deterioration?

A. Deterioration is generally going on throughout the world. As there is deterioration in the world there is also deterioration in India.

Q. May I know what are the causes for this?

A. There are several causes. In India the chief causes are the economic conditions, abject poverty and the want of food and other things.

Q. Do you mean to say that amongst the Brahmins the want of food is the cause?

A. Certainly it is the cause. The Brahmins are suffering like anything.

Q. Do you mean to say that the Brahmins are not getting sufficient food?

A. Somehow or other they are living.

Q. What are the other causes?

A. Poverty is the chief cause.

Mrs. Nehru: Then you mean to say that the circumstances at the present time are not the same which they were at the time these Shastras were written?

A. Yes.

Q. Taking into consideration the changed circumstances would it not be proper for us to draw a new set of rules more suitable to the present circumstances for improving the conditions as regards early marriage and other things.

A. If you admit that the economic trouble is the chief cause, your prime and foremost duty must be to remove that cause and not to devise other means. To my mind there are no other means except by going back to the methods of the ancient days.

Q. How will you be able to solve the problems by going back to ancient days?

A. We can solve the problem by relieving the economic cause and by living the chaste life prescribed by Shastras.

Mr. Shah Nawaz: Are you speaking on behalf of all the communities?

A. I am not speaking about all the communities excepting the Brahmin community. I am not competent to speak for others. I am not a legislator.

Mr. Mudaliyar: May I take it that your objection to any legislation on this point is practically based on religious texts?

A. Primarily it is so.

Q. Do you fortify your opinion by your knowledge of Ayurvedic Science?

A. Yes.

Q. And therefore you say that both according to the Shastras and the Ayurvedic system, you think there is no need for an advance.

A. Yes.

Q. Is it necessary to consider those who are for an advance to be in sincere?

A. Not necessary.

Q. I would like to give you an opportunity to amend a portion of your written statement. You say in the end of your answers to questions Nos. 20 and 21 that the strengthening of the penal law is unwarranted and unjust as it is immoral and unwholesome. I will confine myself to only immorality and in propriety what is the immorality you find in this?

A. Postponement of consummation of marriage is immoral because it is a religious injunction.

Q. You admit that even according to you the Shastric injunction applies to Brahmins and some other communities.

A. Yes.

Q. This questionnaire is addressed to the whole of India to everybody, Hindus, Mahomedans and non-Christians who observe post-puberty marriages and pre-puberty marriages. Remembering that do you think that your statement that it is immoral even according to you is correct?

A. It must be put so far as the Brahmins are concerned.

Q. What is the immorality that you find in this? I want to give you an opportunity of trying to amend the statement that political Brahmins have no regard for moral or ethical principles. You mean that Brahmins in the political field have no regard for religious injunctions. Is that what you mean?

A. Yes.

Q. Again in the course of your written statement with reference to Questions Nos. 20 and 21 you say as follows:—"What all they say is the entire infantile mortality and maternal mortality is due to early consummation and the race deterioration was due to child marriage, a phantom created by the advocates of the Bill". Let me correct in the first place that nobody has, so far as we have examined about 1,500 memorandas and orally examined 400 and 200 witnesses, come forward and said that infant mortality and maternal mortality is due entirely to early consummation. All that they say is that it is a contributory cause and a very large contributory cause to infant mortality and maternal mortality. Why do you suggest that they are false and they are irresponsible? May I take it that you wouldn't like to repeat this thing?

A. No: I wouldn't repeat such a thing.

Q. Taking the spirit of the Shastras do you think it is at all reasonable to expect a religious minded gentleman like you to put himself out to lose his temper and to make statements like this without any idea of toleration of the opposite point of view? Don't you think that this is an intolerant statement of the other side?

A. I don't think so. What I say is that it may be inaccurate but it was written with a genuine view.

Q. I quite appreciate that. That is why I say that you do not improve a good case by unbalanced statements however genuine they may be.

A. The statements may be unbalanced. I must apologise for that.

Q. You believe that there is a section amongst the orthodox section who sincerely think that in these matters they will go against the injunctions of the Shastras if they are to act otherwise.

A. I quite believe so.

Q. So you think that you are at liberty to oppose any legislation interfering with the domestic affairs.

A. Certainly so.

Q. Do you also believe that the marriage amongst the Hindus is not for satisfying any sexual impulses but it is a sacrament meant for the union of two souls?

A. Yes.

Q. Do you further believe that if they are married early there are greater chances of the two personalities uniting and there will be less of opposition always?

A. Yes.

Q. Do you also think that if the girl is not married during the lifetime of the mother or father, she may not be cared for by others if the parents are dead?

A. Yes.

Q. As regards the age of consent law, do you suggest that it should be repealed or do you think it unnecessary?

A. If you accept the spirit of the Shastras, it should be repealed.

Q. Do you feel that the Brahmins have never suffered in any way on account of the child-marriage?

A. Not in the least.

Q. You do not find that the Brahmins are inferior to other castes who are having late marriages.

A. That I have ascribed to other causes.

Q. Is physical deterioration not particularly noticeable amongst the Brahmins?

A. Especially amongst the Brahmins it is not known.

Mr. Bhargava: What is the marriageable age amongst the Brahmins here?

A. It is only after 12.

Q. What is the marriageable age of the boy?

A. There is always a difference of six years between the ages of the boy and the girl. But generally boys are not married at 18. They are married after 20.

Q. May I know what is the percentage of girls who are married after 12, amongst the Brahmins?

A. It may be 60 per cent.

Q. May I take it that they are usually married between 13 and 14?

A. Yes.

Q. Does this not mean that the 60 per cent. of the Brahmins are guilty according to Shastras?

A. Fortunately puberty doesn't take place generally before 13 or 14 and therefore the Brahmins do not fall into that category.

Q. Is it true that many cases of puberty amongst the Brahmins are concealed by the parents?

A. I have never come across such

Chairman: Have you never heard of such cases in the Brahmin community?

A. No.

Mr. Bhargava: What is the period which elapses between the marriage and the consummation?

A. Generally it is 3 years.

Q. So that I understand that the girls when they are married at 13, will go to their husbands at 16.

A. Yes.

Q. So in these 60 per cent. of the cases, according to the Shastras, is not a sin committed?

A. Yes.

Q. Do Brahmins of these places perform Prayaschit for keeping their girls for three years?

A. They do perform. As a matter of fact Mishaga Homa is performed.

Q. So you mean to say that because a girl is kept for three years in the father's home, on that particular day a Homa is performed. Is that correct?

A. Yes.

Q. Then that Homa I think would generally cost about three or four annas.

A. It will cost nearly fifteen rupees.

Q. May I understand that so far as your part of the country is concerned, you have no objection to the law being made that a man shouldn't be allowed to consummate below 15?

A. I quite see that; but so far as the Brahmins are concerned, it appears to me that we don't want any legislation because it is unnecessary.

Q. I am putting to you the fact that in Northern India there are cases in which marriages are consummated at 11, 12, 13 or 14. Would you therefore not like, in the interest of the whole race, that a law may be passed prohibiting consummation of marriage before 14 or 15?

A. If it violates the tenets of the Shastras certainly I will object to it. I am not competent to speak for other parts of the country, so far as we are concerned we don't want it.

Q. May I understand that you consider this child-marriage has come into vogue since 3 or 4 centuries ago?

A. From the earliest Vedic days this child-marriage is being practised.

Q. Do you believe that this is in vogue from the Vedic days?

A. Oh yes.

Q. Can you give me any single Vedic authority for this?

A. I will quote thousands of authorities.

Q. Can you quote any text from the Vedas prohibiting post-puberty marriages or prescribing pre-puberty marriage?

A. It is given in the Upanishads.

Q. I want an authority from the Vedas. There is no clear text but you base your opinion on the inference from the text. Is it so?

A. Yes.

Q. In Rigveda there is a word *yurati*—What does it mean?

A. *Yurati* means a young girl.

Q. Can those Mantras which are recited at the Garbhadan ceremony and at the time of marriage be understood by a girl of 8?

A. It is a Sanskara which she need not understand.

Q. Nor is there any necessity for the boy to understand them?

A. No.

Q. May I know by what age the boys are expected to know the text of the Vedas by heart?

A. By 15.

Q. At what age they are capable of understanding them?

A. From 20th year.

Q. Do you follow the Shastras in every detail—for instance are the Garbhadan Mantras recited by every person at the time of intercourse?

A. In Southern India not a single case escapes.

Q. Are there any cases in which the Garbhadan ceremony does not take place?

A. It takes place though it may not be on the 10th day.

Q. At every marriage—Brahmin or non-Brahmin—are cows offered to Brahmins?

A. Yes.

Q. If a girl is married after puberty, do you think there is any sin?

A. Yes. If she attains puberty before marriage prayaschit is performed.

Q. So there is no difference between marriage before puberty and marriage after puberty provided Prayaschit is done.

A. Yes, but it is a question which is the best marriage.

Q. Would you agree that if the marriageable age is increased there is a likelihood of child widows being decreased?

A. Widowhood has nothing to do with marriage.

Q. Supposing there is a marriage law and the marriageable age is fixed at 16 then all girls below 16 will be saved the chance of becoming widows. Is it or is it not a fact?

A. Yes, it is a fact.

Q. So in order to decrease the number of widows are you in favour of increasing the marriageable age?

A. No.

Q. May I take it that you do not want that the child widows should not exist?

A. In that way if there is no marriage at all there will be no widows.

Q. If a girl were married at 12 or 13 there is a chance of her becoming a widow at 12, 13 or 14 but when a girl is not married till 16, every chance of her becoming a widow before 15 is eliminated. Do you want to lessen the number of widows?

A. There is no harm in lessening the number of widows up to a particular age, but I do not see any point in it.

Q. Among Brahmins remarriage is not permitted therefore you think child widowhood is not an evil. Is it so?

A. I do not think child widowhood is not an evil but that difficulty comes in even after 16.

Q. You say that boys are married at the age of 18 or 20 but according to Shastras boys should be married at 24 or 30. Why are you so particular about girls and not about boys?

A. Because we want to preserve the race. If we keep the female population pure, we can keep up purity of the population and its continuity.

Q. If men are impure and women are pure you still keep the purity.

A. Yes.

Q. Do you not think that a boy can poison the purity of the girl?

A. No.

Q. May I understand that among the child widows and unmarried girls at the age of 16 there is more immorality among the Brahmins?

A. There is every chance.

Q. You think when girls remain widows below 16 there is danger.

A. There is some sort of danger but because of the joint family system there is nothing wrong.

Q. Have you heard any great number of scandals among the Brahmin widows?

A. None in my part of the country.

Q. Then, is not this fear unfounded?

A. It is on principle that Shastras have laid stress on marrying girls early.

Q. I understand that consummation takes place at 16 or 17.

A. Yes.

Q. You say between 12 and 17 there is no danger. What view then the Shastras had in fixing the age of 12?

A. I may say that it is only after 14 that the majority of girls attain puberty, between 13 and 14 they generally do it but in that case they postpone consummation for one or two years.

Q. If that is the case that before 14 girls do not attain puberty what is the objection to the marriage law of 14? As a matter of fact no Shastric injunction will be violated?

A. The best age that has been prescribed by the Shastras is between 8 and 12.

Mian Shah Nawaz: Could you tell me whether according to Shastras a woman should have a voice in the selection of her husband?

A. No because marriage is in the place of sacred thread.

Q. Who is to give consent on her behalf?

A. The father must select a bridegroom and give the girl to him.

Q. Is it a fact that during the Vedic period girls used to select their husbands themselves?

A. I do not believe in the Vedic period. At the time the Vedas were existing Smritis were also existing. There was the system of Swayamber in certain classes of people only.

Chairman: Do you mean to say all the four Vedas and Smritis were co-existing?

A. Yes.

Mr. Shah Nawaz: I understand you to say that if a Brahman breaks the law of marriage he commits a sin but that sin can be expiated.

A. Yes.

Q. Is that sin forgiven by God?

A. Yes, by Prayaschit.

Q. Although it is forgiven by God it is not forgiven by society.

A. Those who wrote the law must be asked.

Q. Is it mandatory that society should not forgive while God forgives?

A. Yes.

Q. I understand you saying that Brahmins must have knowledge of all the Vedas or at least one Veda?

A. The majority of the Brahmins know Vedas.

Q. Supposing they do not observe this injunction, what will be their position? Are they committing a sin or do they cease to be Brahmins?

A. They are committing some sin which must be expiated by a Home.

Q. Do you think this dowry system which is prevalent is in accordance with the Shastras?

A. No; it is a social evil.

Q. Do you force the parents of the girl to pay money to the boy?

A. Yes.

Q. Do Brahmins observe this?

A. Personally I have not received dowry.

Q. Then you say that the object of early marriage is to keep the race pure?

A. Yes.

Q. Are Nambudris orthodox Brahmins?

A. Yes.

Q. Do they marry Nair girls?

A. Yes.

Q. Do they preserve the blood?

A. No.

Q. Do they commit a sin?

A. Yes, they admit it.

Q. Is it expiated?

A. Yes.

Q. Is it a fact that there are differences of opinion that post-puberty marriages are allowed by certain pandits according to the interpretation they have put on the Shastras?

A. I have not heard of any such thing; individual opinions may differ.

Mr. Kankaiya Lal: Suppose we have marriage legislation, what age would you recommend?

A. I do not accept it; I will never recommend anything.

Q. Suppose it is decided to have an age of consent law what age would you recommend?

A. Even there interference is unnecessary.

Q. If it is decided by Government to have a law and if a legislation is passed, will you accept it?

A. I will either meekly submit to it or go to hell.

Q. May I know whether according to you marriage after *ritu* is also permissible?

A. No; if marriage takes place after puberty a *Prayaschitta* has to be done. If the father does not give the girl in marriage for 3 years after puberty he commits a sin.

Q. That means that sin accrues only 3 years after the attainment of puberty.

A. There are stages for marriage. The 8th year is *mukhya kalpa*; from 8 to 11 is *youna kalpa* and after that other *kalpas* come in.

Written Statement, dated the 8th August 1928, of TIRUMANGALAM NADATHUR NARASIMHACHARIAR, Retired Sanskrit Pandit, Presidency College, Madras.

1. Yes.

2. (2) Because in Section 375 under exception, the age of 13 years is arbitrarily fixed. In my opinion it must be improved as "Sexual intercourse by the wife not having attained puberty". In this improved form it will not conflict with the Dharma Shastras

3. No.

4. (3) Certainly not. The law will be made effective by amending it as indicated above in 2 (2).

5. (13) In the Brahmin caste.

(14) In the non-Brahmins.

6. (1—3) No.

8. Yes. It coincides with consummation. It is performed after puberty generally one year after puberty.

9. Provided the girl is not sickly, it is sufficient indication. But a year after puberty is better and is the normal.

10. Soon after puberty.

11. No. The real cause of physical and mental deterioration is the lack of discipline, in matter of eating and sexing, as enjoined in the Shastras, due to the present type of education and meaningless imitations.

13. No.

14. Yes. Consummation of girls a year after puberty.

20. Neither.

21. The very idea of legislation in matters like marriage is wrong. The State must never interfere in religious and social matters, particularly in this country where religion and marriage are so inseparably and intimately connected as to regard Vivaha and Garbhadan as important Sanskaras, as opposed to contractual alliance for skin deep pleasure. Even if by accident the legislation at a particular time may be on the right lines, the possibility of such a power being misused and abused is a sufficient warning to intelligent people not to permit this unwarranted interference of the legislature into the socio-religious domain of marriage. The more glaring will become the absurdity of this interference when we realise the composition of the Councils and Assemblies, a heterogeneous group of men of different faiths, religious and Sampradayas, differing from one another radically on all vital points. Consequently the opinion of the legislative bodies by merely counting the votes of nominated members and others who are deemed heterodox by the Orthodox Hindus believing in the infallibility of the Shastras, must never be considered by any intelligent Government, interested in the welfare of the people to reflect the public opinion of the community affected by legislating on these matters.

Oral Evidence of TIRUMANGALAM NADATHUR NARSIMHA-CHARIAR, Retired Sanskrit Pandit, Presidency College, Madras.

(Madras, 23rd November 1928.)

Chairman: Are you the retired Sanskrit Pandit of the Presidency College, Madras?

A. Yes.

Q. You want the law to be changed and the law should recognize puberty and not any particular age as the prime factor for the consummation of marriage. Is that what you mean? In other words, are you in favour of saying that whenever a girl attains puberty, after that consummation may take place?

A. I am willing to have a law which will say that consummation may take place after puberty.

Q. Are you in favour of pre-puberty marriages? Do you think that they are enjoined by Smritis?

A. I am in favour of pre-puberty marriages, and they must be performed before the appearance of the menses.

Q. Will you give me any texts which say that marriages must be done before puberty amongst the Dwijas?

A. I will give the text—(Witness has promised to send the text in favour of pre-puberty marriages).

Q. According to you are the texts recommendatory or are they imperative?

A. They are imperative.

Q. Are you aware of the fact that some Pandits make it not imperative but only permissible?

A. I say they are mandatory and not recommendatory.

Q. Is there a diversity of opinion on this subject?

A. There cannot be any diversity of opinion on this subject.

Q. Are you not aware of the fact that in the Conjeevaram Conference some Pandits held that they are recommendatory?

A. I say that in that conference some Pandits held also the opposite view.

Q. Is a Prayaschit laid down in the Shastras if a girl happens to attain puberty before marriage?

A. Prayaschitta is not laid down if the girl attains puberty before marriage. But if the girl attains puberty between the first and the fourth days of the marriage, then in that case Prayaschitta is laid down.

Q. Do you know of any text which says that Prayaschitta can expiate so many periods?

A. It will not hold good according to Dharma. But for sexual intercourse it may be valid.

Q. Does any text say so? Do the texts say that she will not be a Dharmapatni?

A. She cannot be a Dharmapatni.

Q. Do the texts say like that?

A. It is so in the Shastras that she is unfit to be a Dharmapatni if she attains puberty before marriage.

Q. Will you quote me the text which says that although Prayaschitta is performed by the girl, she will not be a Dharmapatni but is only fit for Bhog?

A. I will send the text to you Sir. (Witness has promised to send the text for this.)

Q. As regards the consummation of marriage, do the Shastras lay down any rule that a man must after the first menses within sixteen days join his wife?

A. She is fit for consummation of marriage within the first sixteen days of the first menses. It is not mandatory.

Q. What is the period the Shastras permit if it is not mandatory?

A. There is no period within which consummation of marriage should take place.

Q. Supposing a man chooses to wait for three years, will there be no sin attached to him?

A. To discharge the duties of the *pitris* a man should have consummation of marriage within sixteen days of the first menses.

Q. Then do you say that it is imperative?

A. I say it is not mandatory.

Q. My question is if a man for one reason or another waits for three years after puberty, will he incur the sin?

A. Yes. It is a sin.

Q. But if it is not imperative, then how is it a sin?

A. I say that if a man waits for one year, it is no sin.

Q. Do you mean to say that a girl should be only 16 and a man should be 20?

A. It all depends upon the physical conditions of the parties.

Q. Can a man wait till 16 if he wants a good son?

A. Yes: he can wait.

Q. In that case will there be no sin attached to him?

A. No sin will be attached to him.

Q. When do girls attain puberty amongst the Brahmins?

A. Formerly it was 15 and 14. Now-a-days it is 12 and 13.

Q. What is the period that is now allowed by custom or by practice to elapse between puberty and consummation?

A. Six months.

Q. Is that not looked upon by the Brahmins as a sin?

A. No: it is not.

Mr. Kanhaiya Lal: What is the minimum age you would recommend if a law is enacted penalizing marriages?

A. There should be no law fixing the age for marriage.

Q. But supposing it is decided that there should be a law fixing the age for marriage, what age would you recommend?

A. Up to 8 is best. From 8 to 12 is *Gournam* because there is the fear of puberty coming on at 12.

Q. Would you recommend 12?

A. I would recommend 10.

Q. What age do you recommend for consummation of marriage in the interests of the girl and the health of her progeny?

A. 14.

Mr. Kudri: In para. 9 of your statement you say that one year after puberty consummation should take place. But in your oral evidence you say six months. May I know which is correct?

A. My personal opinion is that it should be one year after puberty.

Q. Do you realize that there is physical deterioration in the race. We are getting weaker day by day. Do you know that?

A. I am aware of it.

Q. And there is Shastric recommendation to us that if one wants a valorous son, consummation should take place after 16. Would you not care to carry this Shastric recommendation into effect?

A. I say that 16 is the ideal age. A girl may have a valorous son even at the age of 15.

Q. But don't you agree that as it is, the ideal is 16?

A. Yes.

Q. Do you realize that there is a very large number of child widows in India below 10?

A. I say such cases are very rare.

Q. I can give you figures. The number of widows between the ages of 5 and 10 is 88,580. What do you say to this?

A. I say that those who have got their husbands are double in number.

Q. Are we not to care for those widows?

A. The fate of those widows is due to bad luck.

Q. If the marriage age is fixed at 12, 13 or even 11 any girls who might have become widows between the ages of 8 to 11, would have been saved from widowhood. Is it not so?

A. Even when the marriage takes place at the 11th year and immediately after the husband dies, she becomes a widow and so the same thing happens. If they are fated to become widows, irrespective of the age, they will become widows.

Q. From para. 21 of your statement it appears that one of your objections to any marriage (age) being fixed is your fear, about the misuse or the abuse of the powers. I quite understand that. Supposing if we take sufficient safeguards to prevent any misuse or abuse of the powers, would you be satisfied then, and in that case would you recommend a marriage legislation?

A. I say that if there is a law, there is bound to be a misuse.

Q. Do you agree that the object of all the Shastric injunctions is to secure the greatest good to the greatest number?

A. Yes.

Q. Then if this is the object should we not make all humanly possible efforts to secure having valorous sons and also to prevent the number of child widows?

A. I say, that all are interested in seeing that there are valorous sons and the parents are the more interested in this respect than anybody else.

(Witness promises to send a copy of the book called "A view on Hindu Marriage Problem", which he has not been published as yet.)

Mr. Shah Nawaz: Why are pre-puberty marriages enjoined by Shastras?

A. I say that a girl is not fit to be given in marriage after puberty.

Q. Why not? What is the underlying idea of the pre-puberty marriage? What is it intended for?

A. I say that the right of the father to give her away goes away after she attains puberty. Therefore pre-puberty marriage is enjoined by Shastras.

Q. What will you do supposing the father doesn't exist?

A. If the father is not alive, the brother or her relation can get her married.

Mr. Bhargava: Yesterday a learned Pandit told us that consummation takes place amongst the Brahmins generally 3 years after the girl has attained puberty. Do you support that statement?

A. It is not so. I don't support it.

Q. What is the period in such cases?

A. At the most it is one year. After one year the consummation takes place and not after three years as the learned Pandit has mentioned.

Q. Is this consummation postponed on account of physical considerations that the girl is not fully matured?

A. There are prudential considerations like passing of the B.A. Examination including of course the physical consideration of the pair.

Q. You have given in your answer to Question No. 11 that there are some causes of the deterioration of the present-day people. What measures would you suggest to eradicate those causes which are deteriorating the physique?

A. They should live in good surroundings and they should not take to western civilization, etc.

Written Statement of the South Indian Liberal Federation, Madras.

The South Indian Liberal Federation is an association started in 1916 for the social, moral and political development of the non-Brahmin classes in the Madras Presidency. It includes among its members, members of the various communities of the non-Brahmins, not all of whom observe the same customs and manners in social matters. Its object is to bring them to a common level of progress and to make them realise their full stature, by intellectual, moral and social progress and by political evolution. The Federation thinks, that there is an impression abroad and, as it feels, an erroneous impression that the non-Brahmins in South India are not affected either by the Age of Marriage legislation or the Age of Consent

legislation. So far as the marital state is concerned this impression has no basis. In fact there are a number of sub-castes among the non-Brahmins who practice the system of early marriage and much of the work of the Federation consists in raising all these classes up to the level when they will realise the need for social progress particularly in matters like marriageable age. Not merely are there several sub-castes which observe pre-puberty marriage system but even among classes which normally marry after puberty the example of the so-called high castes is often followed with disastrous results to the children and the future progeny. For both these reasons the Federation is vitally interested in the problems that face the Committee and has come forward to present this memorandum.

Interference with religion.—One constant line of attack from those who may be described as orthodox exponents of Hinduism is that legislation raising the age of marriage or the Age of Consent is in violation of the pledges given by Her Majesty Queen Victoria and by the British Government. The opponents of such measures bring a strong indictment against any Government which tries to pass social legislation of any kind and charge them with breaking the pledges of the past. We would not have taken these objections seriously but for the fact that in the past we have seen many instances where both the local Governments and even the Imperial Government have been warned off their track by such objections. In this Presidency, on more than one occasion, legislation of the kind now proposed was thought of in one form or another. The Hon'ble Mr. V. S. Sastri so early as 1914 introduced a bill for making pre-puberty marriages impossible, for making it compulsory that marriages should take place only after the attainment of puberty; but either the indifference of Government or their dread of orthodox opinion and possibly their nervousness to the charge of interference with religion or all of them together have been responsible for shelving that bill.

Objections answered.—The exponents of the theory of interference with religion, point to Her Majesty's great Proclamation of 1858 which says, "We do strictly charge and enjoin all those who may be in authority under Us that they abstain from all interference with the religious belief or worship of any of our subjects on pain of Our highest displeasure". Her Majesty also declared it to be Her "Royal will and pleasure that none be in anywise favoured, non molested or disqualified by reason of their religious faith or observance, but that all shall alike enjoy the equal and impartial protection of the law". It is on these passages in the Proclamation that the social obscurantists base their opposition to all social legislation. It is obvious that a fuller reading of the Queen's Proclamation will not justify the interpretation, narrow and exclusive, that is sought to be put on it by the orthodox opposition. The Queen directed "that generally in framing and administering the law, due regard be paid to the ancient rites, usages and customs of India". It is hardly necessary to point out that in this latter direction which is positive there is no absolute prohibition against any interference with the ancient rites, usages or customs of India.

Not merely this, but we have to take into consideration the Acts of Parliament which followed the Queen's Proclamation and which gave statutory effect to the ideas and intentions embodied in that great Proclamation. The Indian Councils Act, 1861 is the statutory embodiment in fairly precise terms of the general principles set out in the Royal Proclamation, and, so far as that Act is concerned, not merely is there no positive prohibition against legislation affecting matters of religion, but, on the other hand, there is an express provision permitting of such legislation. The possibility of such legislation is clearly contemplated. The only safeguard that is sought to be left is against irresponsible initiation of such legislation. Section 19 of the Indian Councils Act makes it clear that, with the previous sanction of the Governor General measures affecting the "religion or religious rites and usages of any class of Her Majesty's

subjects in India" may be introduced not only into the Imperial Council, but also into the Provincial Councils, wherever they may be established. This authority has been continued in successive revisions of the Government of India Act, and the latest Act of 1919 contains a clear provision to the same effect. Is it possible under these circumstances that either from the Queen's Proclamation or from any Parliamentary statute, a prohibition could be spelt, positive and uncontradicted, against any interference with ancient rites, customs or ceremonies or even with religious matters.

It may also be mentioned that the Queen's Proclamation was not conferring a new right or extending a new principle, but that the principle enunciated therein was long recognised by the Court of Directors and the East India Company and was repeatedly given effect to by them and was also embodied in the Charters which were granted by Parliament from time to time to the East India Company. It is essential to remember this historic background to make the orthodox opposition understand that it is impossible for them to use the argument of interference with religion with any success.

It is true that religion cannot be lightly interfered with by a legislature and that ancient customs, rites and ceremonies cannot be abolished without proper cause. The Queen's Proclamation speaks of *due regard* being paid to these customs and rites and there is a classic interpretation of what the phrase "due regard" means in connection with the great emancipatory measure of Lord William Bentinck which put down the practice of "Sati". The legislation in connection with that bill, the agitation that was raised against the measure both at its inception and after it was passed, are very similar to the agitation that has frequently been raised by the orthodox section against the Age of Consent. It is quite true that to-day the orthodox people turn their eyes in horror and say that nobody would be prepared to support the practice of Sati, but their ancestors in the thirties of the last century were no more unreasonable and bigoted than they are to-day, and the arguments which they advanced are identical with the arguments that are advanced to-day. After the regulation had been passed by law by Lord Bentinck's Government, an appeal was presented by the orthodox section to the King in Council against that measure. In the course of the appeal the learned orthodox pundits said that it was "an interference with the most ancient and sacred rites and usages of the Hindus and in direct violation of the conscientious belief of an entire nation". It was also urged "that the abuses (if any) which may have arisen or occurred in the practice of Sati can be effectually prevented by a proper attention to the opinions of the Hindus, and an equitable administration of the existing laws, without requiring a total interdiction of the practice". It was further alleged that the regulation was "unjust, impolitic and a direct infringement of the sacred pledge to keep inviolate the religion, laws and usages of the Hindus, manifested throughout the whole general tenor of the Acts of the Legislature of Great Britain and the regulations and conduct of the Government of the East India Company". The Privy Council recommended that the petition should be dismissed on four grounds, the third of which ran as follows:—"Because the Regulation (Regulation forbidding Sati) cannot properly be regarded as a departure from the just and established principles of religious toleration in the observance of which the stability of the British Government in India mainly depends, and because the rite is not prohibited as a religious act, but as a flagrant offence against society." The Privy Council further added that "it admits of question whether the rite is sanctioned by the religious institutes of the Hindus, that by many of the most learned Hindus of the present day it is regarded as absolutely sinful, and that it was the duty of Government to prohibit a practice which so powerfully tended to deprave the national feeling and character, and which taught perverted religion to predominate over the best feelings of the heart". The Court of Directors in rejecting the appeal said that "the power of

making laws is vested in the Governor General in Council, which power is recognized and confirmed by the British Legislature, that in exercising this power the Government of India has at all times manifested a just attention to the religious opinions and customs of the natives so far as is compatible with the paramount claims of humanity and justice, and that a discriminating regard for those religious opinions is not incompatible with the suppression of practices repugnant to the first principles of civil society and to the dictates of natural reason".

It seems to us that the present aim of legislation is the same as that of the abolition of Sati though the horrors may not be as apparent as in the immolation of Hindu widows on the funeral pyre of their husbands. The child-girl, who conceives at the 12th, 13th or 14 year does double dis-service to herself and to her progeny, and her future existence is a living death far more horrible than the quick and certain death by fire of the Hindu widow in a moment of ecstasy, forced or voluntary.

Answers to Questionnaire.

1. There is considerable dissatisfaction with the state of the law as to the Age of Consent obtaining at present. The age of 13 has made practically no difference. Few even among the educated classes are aware of the amendment that has been introduced. Early marriages go on quite as freely as before among those classes who are accustomed to marry at that age and the consummation of marriage takes place as soon as puberty is attained, which is generally between the 12th and the 14th year. There must be many cases, in fact, we know of some, where consummation has taken place before the 13th year even after the Act was passed. There is thus a general feeling that the law has fixed such a limit as to be practically inoperative and that the benevolent intentions of the Legislature have been made nugatory by the very conservatism of its enactment.

During the last two years there has been a particular impetus given to this subject by various attacks that have been made on Hindu customs and manners, some by sympathetic critics, more by those unsympathetic outsiders who are determined to exaggerate and to distort the facts and circumstances of Hindu society. Publications which need not be mentioned in detail here, which have gone forth to the world exhibiting Hindus as most callous beings, subjected to most revolting customs and manners, have had not a little effect in making the generality of people, determined to do everything in their power to put down the abuses that are prevalent amongst a small number of their countrymen and which give room to these unjust aspersions against the whole society. The dissatisfaction has palpably been more within the last two years.

2. The answer to the previous question shows the circumstances which justify making an advance on the present law. The present law gave such a narrow margin of increase that it was very little effective, that it was really taken no notice of and that no serious consequences in improving the state of society followed on the introduction of that law. Public opinion has been specially stirred during the last 2 years and is in favour of an advance on the present law.

3. The crimes of seduction or rape are not frequent in our part of the country, Madras being under settled circumstances for several centuries, and except among the poorer and ignorant classes in remote and uninhabited parts of the country, neither of these crimes occur in any large numbers in any part of the Province. The age of 14 in cases outside the marital state is, in the opinion of the Federation, too low. It is anomalous that different ages should exist for different offences of the same category under the law. At present 14 years is the Age of Consent in cases of rape, 16 years is the Age of Consent in cases of seduction and abduction, 18 years is the age of majority. Beyond being confusing they are also illogical.

The Federation would suggest that there is no reason why 18, the age of majority, should not be the Age of Consent in cases of rape, seduction and abduction. The latter two offences do not come within the purview of the enquiry by the Committee, but to give a complete answer the Federation has put forward what it considers the proper age for all these offences.

4. This question has already been answered. The raising of the age to 13 has had appreciably no effect at all.

(1) It has not postponed the consummation of marriage. It does take place among the Brahmin Caste, in many instances, practically as soon as the first signs of puberty set in. The Association knows of cases where within a week or a fortnight of the first signs of puberty consummation has been arranged, the girl practically being within her 13th year.

(2) Public opinion has been stimulated but not as a result of the Act of 1925. Other matters which have been already referred to have stimulated public opinion.

(3) The Association knows of no instances where on account of the legislation of 1925 marriage has been put off beyond the year 13.

My Association would suggest that the Age of Consent ought to be further raised and that side by side with that legislation fixing the age of marriage should also be adopted. These two steps *pari passu* could alone achieve the objects in view.

5. The usual age at which girls attain puberty in this part of the country is between 13 and 14. It differs slightly in different castes; among the Brahmins for example the age being a little lower, sometimes 12 and often between 12 and 13. The constant talk of early marriage is one of the causes for early attainment of puberty amongst some of the classes which practice this system of early marriage.

6. (1) Cohabitation before puberty is not common in any part of the country among any class or classes of people.

(2) Cohabitation almost immediately after puberty is common among the orthodox section which practice early marriages, but among other classes even where early marriage does take place occasionally and in most cases where late marriages do take place, consummation is still put off for a fairly long period after the first signs of puberty.*

(3) There have been cases of cohabitation before the girl completes the 13th year. These cases have not come to court because of certain difficulties of provoking the age of the girl and the unwillingness of the neighbours to penalise the thoughtless act of the parents or the guardian. Moreover, if a sufficiently high age were set up, it is possible that the heinousness of the crime would be more forcibly brought home not only to the parents but also to the neighbours and the chances of such cases coming into court would be better.

7. The practice of early consummation of marriage is supposed to be based on religious injunction, but as we know that the persons who follow this practice have broken many other religious injunctions of a more mandatory character, it is impossible to suggest that it is religious injunction alone that is responsible for this practice. Custom, the requirements of the old women in the family, who long to see the marriage before they die, unreasonable and improper as those requests and requirements are, the difficulty of securing a proper boy after the girl is grown up and the boy also is grown up, the greater money that has to be paid in the form of dowry to the boy when he is so grown up that his future is fairly certain, all these are as much reasons for early consummation of marriages as any religious injunction. Boys in this part of the country, in such cases, are married at an early age, 14 or 15 before their future is known, before their education is fully developed and before the parents

are in a position to say whether the boy will prove to be a clever and successful man or not. The price for the boy is, therefore, less at this stage than later when the boy is a graduate or a double graduate in which case the parent of the bride has to pay a heavier dowry to the boy.

It may, however, be stated that even amongst orthodox people, particularly in the towns, the practice is growing up of having the marriage of girls performed after puberty and the consummation of such marriages fairly long after puberty but of trying to keep the fact of puberty a secret and pretending that the girl has not yet attained puberty. Such cases only show how even orthodox opinion is changing and it requires just a little firm assistance from the legislature to make the orthodox section throw overboard the injunction which hits it hard and is so full of peril to the young children.

8. The *Garbhadan* ceremony is still performed in our part of the country usually after marriage and coincides with the consummation of marriage. It is performed only after the attainment of puberty. In the case of those who perform early marriages it is performed almost immediately after the first signs of puberty. In the case of others it is performed, sometimes, years after puberty.

9. The first signs of puberty are certainly not an indication of physical maturity. It does not justify consummation of marriage. There ought to be at least two years interval between the first signs of puberty and the consummation of marriage to justify consummation without injury to the child's health or her future progeny.

10. The Association does not believe that any girl could give an intelligent consent to cohabitation with due realization of consequences unless she has attained majority that is, she is about 18 years of age.

11. The Association has a number of medical members and it is the opinion of such members that grave and serious consequences have resulted in cohabitation soon after puberty. Sterility is one of such evils, another is the displacement of the womb resulting in constant abortions. The third is of course the birth of immature children who die before they are one year of age. These are, however, subjects on which medical experts are better qualified to give an opinion.

12. The Federation is of opinion that infant mortality and high maternal mortality are largely due to the early consummation of marriages.

13. This question has already been referred to. The association would be in favour of raising the Age of Consent in marital cases to 15 and extra-marital cases to 18. This is general and not confined to any particular classes.

14. The education of women has progressed remarkably in the Madras Presidency. At the last convocation over 125 ladies took their degree. There are two well-equipped colleges with residential houses in the city of Madras accommodating nearly 400 students and there are other colleges in the mofussil. The number of schools for women are several scores. There has been great educational expansion, and the women are taking interest in the public life of the country. It can only be said that women are entirely in favour of such a measure. Such women as are able to bestow any thought on the subject, educated or not, are entirely in favour of raising the Age of Consent and against early consummation of marriage for their children. Women associations, of which there are many, will give the Committee an idea of the women's point of view, but our association, which also includes women members, is definitely of opinion that women are antagonistic to the early consummation of marriage for their children.

15. The difficulty is generally experienced in determining the age of girls as there are no accurate statistics or birth registers in rural areas indicating the age of the child girl. The measures to remove these difficulties would be effectively to strengthen the machinery which is now in

charge of keeping birth and death registers in the mofussil. It ought to be incumbent on the village headman, who registers these in the villages, to report them immediately at the Taulaka office, and the Taulaka office should have a register for each village. That would produce as much accuracy for the village as is now obtainable in the case of cities.

16. The margin of error would certainly be materially reduced if the Age of Consent is raised to 15 and 18 as we have suggested above. My association does not agree to the separation of extra-marital and marital offences into different offences. It is not desirable that the gravity of the offence should be minimised in that way. In the case of marital offences, the offence is an offence affecting the wife, not as wife, but as a human creature, and it would certainly weaken the effect of law if the Legislature were to draw a distinction in favour of cruelty on the part of husbands. With regard to the amount of punishment to be inflicted, my association has no reason to believe that the present maxima fixed for the offences are inadequate, and if there is any unreasonable tendency on the part of magistrates or courts to award a lesser punishment than is justifiable to a husband, such matters can be rectified by the Government taking the matter on revision to the higher court or issuing instructions to magistrates pointing out the need for enforcing the law without undue leniency.

18. While my association does not think that the offences should be separated, it certainly is of opinion that the procedure must be different in the case of intra-marital offences: prosecution can only be launched at the instance of a relation of the party affected and not at the instance of strangers. So far as extra-marital offences are concerned, it may be cognizable and the prosecution may be at the instance of any. In the case of marital offences, the trial should be *in camera* and the names of the parties ought not to be given out to the public.

19. We have no answer to give.

20. Our association is of opinion that legislation is required both for the fixing of higher Age of Consent and fixing an age of marriage. The remedies are not alternative but supplementary and both are necessary to bring about the objects which the Legislature has in view. If it decides upon preventing early consummation of marriages, public opinion at present is not prepared for raising the age of marriage to any high degree, especially amongst the orthodox section and as the prejudices of that section cannot altogether be ignored however unreasonable they may be, expediency requires that a lesser age of marriage and higher Age of Consent have to be simultaneously prescribed. At the present moment public opinion is fairly united that the age of marriage may be fixed at 14 and that the Age of Consent may be fixed at 16 in the case of marital state. Both remedies are therefore in our opinion needed.

21. Social reform can only progress if aided in its wake by the strengthening of the penal law. Social reform is always in advance of social legislation. But it is impossible to make any social progress if there is no backing by the State. All those ideas which have so far permeated the masses have to become fairly common among them. The work of the social reformer is of a pioneer character. He gives expression to new views and spends a long time in propagating those views. When they have become fairly common, the Legislature has to step in and strengthen his hands by enacting his ideas into necessary legislation. On the other hand, if the State were to sit with folded hands and desire that the social reformer should convert not the majority of the public but the entire population without a single exception and were to state that that is a most desirable thing, it can only be said that it is utopian and will never be achieved. My association therefore feels that wherever the social reformer has made sufficient progress, legislation is necessary and the State must come to the rescue and enact that legislation.

**Written Statement of Diwan Bahadur T. VARADAJULU NAIDU
GARU, Secretary, Madras Social Service League, Madras.**

1. Very few people even among the educated classes are aware of the provisions of the law as to the Age of Consent, especially in relations between husband and wife. Therefore, it cannot be said that there is wide-spread satisfaction or dissatisfaction regarding the Age of Consent. But among those who bestow thought on the subject, there is intense dissatisfaction, especially with regard to consent in extra-marital relations.

2. I am not for retaining the law of the Age of Consent as it is. An advance on the present law is necessary for the improvement of the nation physically at any rate. Undoubtedly motherhood commences too early among most Indians and anything that helps to raise the age of motherhood is to be welcomed. Another circumstance that would justify an amendment of the law in this direction is the respect which people in India have for law. If the State legislates that there shall be no marriage or consummation of marriage, under a particular age, the people will generally abide by it and accept it as the right standard. Silently, perhaps unconsciously, people will postpone the marriage or consummation of marriage till the age prescribed by law is reached. There will be no tendency to revolt or disobedience. It will certainly enable parents or girls to resist the overtures of their sons-in-law or their parents. Of course, for this result to be achieved quickly, steps would have to be taken to acquaint the people with the provisions of the law on this matter.

3. I do not think the amendment of the law made in 1925 has succeeded in reducing cases of rape outside the marital state. I think, however, that it has succeeded to some extent in reducing seduction of girls for immoral purposes. It has checked to a large extent the dedication of girls of the Devadasi community to temples at an early age.

4. I do not think the amendment of 1925 has been effective in either (1) postponing the consummation of marriage, or (2) stimulating public opinion in that direction, or (3) putting off marriage beyond 13. These changes are taking place, but without reference to the amendment of 1925. Among Brahmins and other castes who habitually marry their girls before puberty, public opinion is advancing, owing to the spread of education and the ages of both marriage and consummation are gradually rising.

5. Usually between 13 and 15. Among the labouring classes, puberty is attained later than among the leisured classes.

6. (1) Cohabitation before puberty is not permitted in this part of the country in any class of people or any caste.

(2) Consummation usually takes place now-a-days about a year after puberty. Amongst Brahmins it takes place earlier usually—within a few months after puberty.

(3) It is extremely rare now-a-days to come across a case of consummation before the girl has completed 13 years. I am not aware of any of such cases having come to Courts. If a few cases come before the courts, the provisions of law will get better known.

7. The present day parents, both fathers and mothers, are not moved by any religious injunctions in the matter of the consummation of the marriage of their sons and daughters. They are moved only by social opinion and their own convenience. In other words, no one believes he will go to hell, if the consummation of his daughter's marriage is not completed within so many days or months of her attaining puberty. Such fear exists in the minds of some in respect of marriage; they think that a girl's marriage should be performed before puberty, else hell to the parents and even to their ancestors. Their number is gradually diminishing.

8. In this part of the country *Garbhadan* ceremony coincides with the consummation of marriage. I believe, however, that in the marriage ritual

itself amongst Hindus, who have adopted the brahminical customs, there is a portion which relates to *Garbhadan*.

9. The attainment of puberty is not, emphatically, a sufficient indication of physical maturity. At 18, some 4 or 5 years after puberty, I would consider a girl sufficiently mature physically to become a mother.

10. At about 16, a girl is usually competent to realise the physical consequences of cohabitation, but I doubt if even at 20 she can fully realise the social and other consequences of the act.

11. I have seen several cases of early consummation of marriage resulting in serious injury to the health of the mother and birth of very weak children, who die very early.

12. I consider that early consummation and early maternity are largely responsible for high maternal and infantile mortality. In a number of cases, children born when their mothers were immature, i.e., under 16, are physically inferior to those born of the same parents at a later age. For a sufficiently virile race to come into existence, early consummation should be prevented.

13. Public opinion among the educated classes has, I believe, developed in favour of the extension of the Age of Consent and the age for marriage.

14. No, not the present day mothers. But they think it not right to put off consummation longer than a year or so after puberty. This is, however, the case with uneducated women. The educated do not favour consummation until 16 years have well passed.

15—16. Medical opinion as to age is always a doubtful factor, and the raising of the Age of Consent to 16 in extra-marital cases may reduce the margin of error.

17. It may be more convenient to treat the two as distinct offences. I would retain the present maximum punishment for each class.

18. It may be desirable to constitute special benches to try offences like rape, adultery, indecent assault, etc. The trial of such cases, especially marital ones, should always be *in camera*.

19. In cases of rape, with the consent of the woman, as the woman is an accomplice, independent corroborative evidence of the offence may be demanded.

20. Penal legislation fixing a higher Age of Consent for marital cases is likely to be generally more acceptable to the people in this part of the country than penal legislation fixing the minimum age of marriage; but penal legislation raising the minimum age of marriage is likely to be more effective, and will be more welcomed by the educated public. Illicit marital intercourses are difficult to detect, but early marriages can be easily prevented.

21. I would not rely solely either on penal law or on education and social propaganda. I would employ both means.

**Oral Evidence of Diwan Bahadur T. VARADARAJULU NAIDU
GARU, Secretary, Madras Social Service League, Madras.**

(Madras, 23rd November 1928.)

Chairman: Are you a retired Sessions Judge?

A. Yes.

Q. To what districts is your experience confined?

A. To the Northern districts mostly.

Q. Is there any distinctive difference between the Telugu and other districts in these matters?

A. I should think social reform has advanced in the Northern districts. This is due to the work of some social reformers like the late Mr. Veeresalingam Pantulu. Opinion there is a little more advanced.

Q. Are there any communities there amongst whom pre-puberty marriages take place?

A. It is everywhere the case amongst the Brahmins and Vaisyas.

Q. When does consummation take place amongst Brahmins and Vaisyas in that part of the country?

A. Generally amongst Brahmins and Vaisyas it takes place very shortly after puberty, at the most one year.

Q. Is that looked upon as anything against Sastras?

A. No; I do not think so.

Q. What is the membership of the Social Service League?

A. The membership of the League is confined to Madras. We are about 30 to 40 members. I have been asked to represent the South Indian Liberal Federation also.

Q. What is the South Indian Liberal Federation?

A. It is more a political than a social organisation. Many thousands of people are members of that organisation, and it has spread over the whole presidency.

Q. May I take it that the opinion which you are giving is the representative opinion of the two bodies?

A. The memorandum of the S. I. L. F. is a representative memorandum. A few of the leaders of the organisation met and prepared the memorandum.

Q. Have you got an executive committee of the body?

A. Yes; but the memorandum was not placed formally before the executive committee. The memorandum was prepared by some leading men, but the objects of the association permit of such things.

Q. Do you think there will be any trouble if legislation is passed by Government?

A. The memorandum suggests fixing 14 for marriage and 16 for consent in marital cases and 18 outside. But personally I would like to have 16 both for marriage and consent.

Q. Do you mean to say that a law fixing the age of marriage at 16 would be acceptable to the people?

A. There may be a little opposition at the outset, but once the law is passed, people will settle down.

Q. In your opinion is it right that the Brahmin whose custom of pre-puberty marriages is centuries old should be forced to accept a law, and do you think that Government would be justified in passing a legislation fixing the age of marriage at 16?

A. The Brahmin forms a very small part of the community. I think it will affect only a portion of the community, and that except a few reactionaries most of them will agree to the age of marriage being raised.

Q. But do you not think that that must necessarily be a very small portion? What do you think it will be out of the entire Brahmin community?

A. I think it will be 10 per cent. But there are also other people who feel that there should be legislation, but who are unable to express it in public by reason of social ostracism.

Q. But what about the remaining 90 per cent.?

A. I think in the national interests we must vote for it and have the measure.

Q. Several witnesses have suggested several ages. Do you think that 15 would be a good age for legislation to start with?

A. I think Government should come to the rescue of the advanced section of the community when that advanced section is proceeding in the best interests of the country.

Q. But they do not want to be rescued but are doing it themselves.

A. But they would like to see the nation progress. I think 15 would be justified in the larger interests of the country.

Q. What do you think is the age of consummation of Brahmin girls here?

A. It is about 14. Non-Brahmin girls have their marriages generally after puberty. With them about 15 or 16 is the normal age of consummation and it mostly takes place with the marriage. There is one other consideration. If you do not raise the age of marriage, but only the Age of Consent, there is the difficulty of illicit offences being committed by husbands. And if the offences are brought to light there is the risk of the husband discarding his first wife, and taking a second. Unfortunately we have no law of monogamy here. Mr. K. Natarajan an authority on Social Reform has suggested that if there is a law of marriage or Age of Consent a law on monogamy should also form part of it.

Q. Do you mean to say that in simply raising the Age of Consent there are risks?

A. Yes; if you do not raise the age of marriage correspondingly. If possible I would have them both at 16.

Dr. Beadon: You say that you have seen cases of early consummation resulting in serious injury to the health of the mother. Would you give us details of one of two cases which you came across during the last two or three years?

A. I can give you instances in my own family. A girl is married in her 12th year, consummation takes place in the 13th year and there is difficulty at the time of delivery. Generally these are cases where forceps have been used.

Q. Have you seen many cases like that?

A. Yes, several cases.

Q. Did these cases happen during the course of the last 5 years?

A. I am thinking of cases which occurred earlier. I can recollect a case where a girl had to be delivered at 13, and forceps had to be used. Such cases are frequent in cases of early consummation.

Q. Do you also think that the children are weak?

A. Yes; they are either weak or they die very early.

Q. We are told that if marriages are postponed the parents will not be in such a hurry to get their daughters married, and the dowry system would gradually subside. Is that correct?

A. The dowry system prevails only amongst the Brahmins of Southern India, and not amongst all Brahmins. Non-Brahmins do not generally insist upon it.

Q. Is that so in the Telugu countries?

A. The Brahmins and one or two sections of the non-Brahmins insist upon it. But the majority of non-Brahmins do not insist upon it. It has almost come to be regarded as interdicted amongst them.

Q. Do you think that amongst Brahmins there have been cases of concealed puberty on account of the difficulty of getting husbands?

A. Amongst Brahmins it is happening to a large extent in a number of cases in the city. They wink at it and there is no sort of social ostracism.

Q. Amongst Hindus is the joint family system continuing or is it dying out?

A. There is a tendency for the joint family to break up. Ideas about individual liberty and freedom of action are coming in.

Mr. Nehru: You say that the age of marriage and consummation of marriage are rising without reference to the amendment of 1925. If that is so, and this law has not in any way affected the people so far, why do you recommend the raising of the age any further?

A. First of all the Hindu is a law-abiding man generally. Especially as education is spreading amongst women in Southern India I think they will come to the front and ask for the reform.

Q. What do you think will be the difference which will make people obey the law in future? You have said that so far the law has had no effect. Nobody knows it and even the amendment of 1925 has had no effect. How will then the raising of the age be effective in future?

A. The previous raising of the age was too small. Now if the age is raised by 2 or 3 years you can detect cases easily.

Q. You have said that there are a great many cases of abduction and seduction for immoral purposes and that this amendment even in extra-marital cases has not had any effect.

A. I was referring to the Devadasi community.

Q. Can you give us any figures?

A. No; I know that the Devadasis now feel that they cannot prostitute their girls at an early age.

Q. Is the law generally known amongst them?

A. Yes; many of them understand the law because it directly affects them.

Q. You said that consummation usually took place soon after puberty. Amongst what class of people is it so?

A. It is generally amongst Brahmins who have pre-puberty marriages that consummation takes place soon after puberty. Amongst non-Brahmins they generally marry after puberty.

Q. Is the idea spreading amongst Brahmins that consummation should be postponed?

A. I should think so. It is being progressively postponed.

Q. You say that in the marital ritual of the Brahmins there is an operation which relates to *Garbhadhan*. What is it?

A. My impression is that a sort of *Garbhadhan* takes place at the time of marriage when the husband is asked to put his arm round the waist of the girl. This is also done amongst Sudras who follow the custom of the Brahmins. I think the ritual means that the girl is about to be confined. It is only a ritual but in no case does consummation actually take place.

Q. You say that you would like to make a distinction between marital and extra-marital cases, and at the same time you are of opinion that the present punishment might remain. Is it the name you object to or would you lighten the punishment also?

A. I have not much faith in a different name.

Q. Do you think the present punishment of 10 years below 12 and 2 years between 12 and 13 might remain?

A. That may be retained.

Q. Would you advocate a lessening of the punishment below 12 in intra-marital cases?

A. My personal opinion is that in marital cases the punishment should be practically nil.

Q. At the same time you are suggesting the same punishment as exists at present. You have also suggested 16 as the Age of Consent in marital cases. What punishment would you have for offences below 12?

A. Personally I would like that it should be as light as possible. It can be 2 years.

Q. And between 12 and 16?

A. Personally I think in marital cases as far as possible there should be no punishment in the interests of the girl.

Q. Will you have security bonds, or fine or warning?

A. Probably fine proportionate to the state of the family will do. I am suggesting that only in the interests of the domestic happiness of the family.

Q. Do you want the cases to be made cognisable even after 12?

A. It should be non-cognisable even below 12 in marital cases.

Q. To whom would you give the right of complaint?

A. There will be a preliminary investigation by some Government Committee or other.

Q. On whose complaint?

A. Anybody might complain provided there is a competent Committee to sift evidence before the case is sent to the court. As at present any member of the public can complain. I only want that prosecution should not be launched before a respectable person goes into the matter and satisfies himself that there is a case for prosecution.

Q. You say that steps should be taken to acquaint the people with the provisions of the law on this matter. What steps would you suggest?

A. Public opinion has to be changed by social propaganda. I would suggest that social reform organisations and women associations should take up the work.

Q. Would you like Government to take any steps?

A. Government should make it as easy as possible by sending copies of the law to village headmen and asking them to proclaim it in the villages. Social organisation may assist Government in the matter of propaganda.

Q. You say that the leisured classes attain puberty earlier. The reason that Brahmin and Vaisya girls attain puberty earlier is said to be because there is the custom of early marriage amongst them. Do you think there is anything in it?

A. I do not think there is much in that. It is no doubt a fact that the idea of marriage is being dinned into the ears of girls at a very early age.

Q. You say that Brahmin parents are only moved by social opinion. Does that mean that they are apprehensive of social oppression or is it merely pressure of public opinion?

A. I mean what people think of the matter, whether they think that a girl should be married earlier or later. It differs according to the circumstances of each family. They do not fear the consequences.

Q. It seems you make a difference between the nature of the shastric injunctions as regards consummation and marriage.

A. Yes.

Q. Do you think that consummation injunctions are merely recommendatory while the marriage injunctions are mandatory?

A. That is the general belief. But there is very little difference between what is mandatory and what is recommendatory these days. You can turn anything into any way you like. Injunction regarding sea-voyage, for example, was considered to be mandatory and now they say it is only recommendatory.

Q. If a man does not conform to these religious injunctions as regards marriage is he ex-communicated?

A. Post puberty marriages are taking place even among the Brahmins. In the cities several marriages have taken place and there was not the least social obstruction. In the villages there is some social ostracism, but they are coming to realise the value of post-puberty marriages.

Q. Can we conclude that if there is a law fixing the minimum age of marriage there will not be much opposition?

A. There will be some outcry, but eventually they will submit.

Q. What age have you suggested for marriage?

A. Our association has suggested 15 for marriage, but personally I would go even to 18.

Q. In paragraph 8 you say, at 18 a girl is sufficiently mature and in paragraph 10 you say even at 20, she cannot fully realise the social and other consequences of the act. Having regard to this what age do you suggest for extra-marital cases?

A. It should not be less than 18. The age of majority is 18 and the Age of Consent should also be fixed at the same limit.

Q. In paragraph 18 you speak of constituting a special bench to try these cases. What should be the constitution of the bench?

A. There must be a judge aided by some honest elderly gentleman and preferably by one or two ladies.

Mr. Bhargava: From your reply to question No. 14, may I take it that the general view of the women of the Madras Presidency both educated and uneducated is that consummation should be postponed?

A. Yes.

Q. So I take it that generally the women of this Presidency like this legislation?

A. Yes.

Q. You say in your answer to question No. 19 that in cases of rape with the consent of the woman, as the woman is an accomplice, independent corroborative evidence may be required.

A. It is the accepted principle of law that an accomplice's evidence requires corroboration.

Q. But would you call the girl an accomplice at all?

A. I suppose so.

Q. But according to law her consent is immaterial, her consent is no consent. Would you still call her accomplice?

A. She is a party to the bargain.

Q. There is no bargain.

A. But physically she is a party.

Q. In the eye of the law it will be regarded that the act took place without her consent, would she then be in your opinion a competent witness?

A. If she is not an accomplice as you say, she will be an independent witness.

Q. In the course of your answer to question No. 8 you say, it has checked to a large extent the dedication of girls of the Devadasi community to temples

at an early age. May I know how this amendment of the law has worked in regard to the Devadasies?

A. I think they have come under the operation of the law much better than any other person.

Q. Unless a person commits rape merely dedication cannot be punished. How has it postponed dedication?

A. The man who dedicates a girl will be an accomplice.

Q. By the mere act of dedication?

A. Dedication imposes that the girl will for ever become a prostitute.

Q. Do you think that the law presumes this? Do you mean mere dedication is tantamount to abetment of prostitution?

A. I should think so. It means she is destined to live the life of a prostitute for ever.

Q. Not necessarily?

A. In these parts it is so. If once a girl is dedicated to a temple and she marries afterwards it is considered to be a heinous crime.

Q. How has the amendment of 1925 postponed this dedication?

A. I should think so because the girl has to be kept immune till 14 years. They can't prostitute the girl till 14.

Q. Have any cases been brought to court in regard to Devadasies?

A. I have heard of a few prosecutions in this Presidency, by reason of the girl having been made a Devadasi before 14.

Q. You say, there should be special benches to try offences like rape, adultery, indecent assault, etc., etc. You don't want to limit it to rape only which would come under the new attempted legislation. In the case of indecent assault, etc., there is Section 354 Indian Penal Code. You want all these cases to be tried by a special bench.

A. That is in the interests of the general morality of the people.

Q. May I know how the association of one or two ladies with the judge on the bench conduces to the better morality of the people and help in the better administration of justice? Even at present rape cases are tried by the Sessions Judge who is always an experienced man.

A. I think association of ladies would be a help.

Q. You also want that the trial of marital cases should be in camera.

A. Yes.

Q. In the Presidencies, Madras, Calcutta and Bombay there are lady magistrates. Would you be satisfied if all such cases are sent to these lady magistrates to be tried?

A. If there are sufficiently experienced ladies, I would be satisfied.

Q. You don't want to press this point of constitution of special benches.

A. No.

Q. As regards marital cases would ordinary courts with a First Class magistrate of 10 years' standing do?

A. I should like to have some special benches with experienced elderly men of good character.

Q. Would you be satisfied with a man of 10 years' experience who will be of the rank of Sessions Judge or Assistant Sessions Judge?

A. He should be assisted by one or two ladies.

Q. Should they be assessors and not co-judges?

A. Assessors.

Q. As regards the right of complaint, you suggest that it may be given to the general public as it is now and you think in marital cases the police should not interfere. So that the preliminary enquiry is to be made by some judicial officer preferably of some experience and in that preliminary

enquiry the accused need not be present on the scene till a *prima facie* case is proved.

A. Yes.

Q. You are in favour of instituting some such system. A judicial officer may get all possible reports of the commission of this offence and after that he should make some sort of enquiry and only commit such cases to court in which it is found that there is a *prima facie* case.

A. Yes.

Q. If this sort of system is brought about you would not like that the commitment stage may remain as it is.

A. No. The cases should go direct to the court.

Mr. Kankaiya Lal: Are you at the Bar?

A. I started life as a translator in the Madras High Court, from there I became a District Munsif and retired as a Sessions Judge.

Q. Are you now in practice?

A. No.

Q. You have said that women may be associated with the magistrate in trying marital cases. If women are not available, would you like that non-official males may be associated?

A. Some respectable gentlemen may be associated if ladies are not available.

Q. You have experience of the work of assessors: Do you think they will be the proper men to assist the judge?

A. I don't want assessors of the type you are thinking of. I want two respectable men of the locality who know something about the conditions of life in the country. That sort of people I want as assessors.

Q. Would you like to have men who would only assess the guilt and not the sentence?

A. But even the assessors may make recommendation.

Q. Would you prefer them as co-judges who may partake in the trial and assess both the guilt and the sentence and give their verdict?

A. I would prefer them as assessors.

Q. Would you like to have instead of that one magistrate and two non-officials with the assistance of any assessors to try all these marital cases?

A. That system may be tried.

Q. At present cases under 12 go to the Sessions Judge and cases above 12 go to the magistrate. Would you prefer to have one matrimonial court consisting of a magistrate and two non-officials as co-judges?

A. I think it may work satisfactorily provided men are drawn from the proper quarter.

Q. You think it will inspire better public confidence.

A. Oh, yes, in the existing state of things.

Written Statement, dated the 12th August 1928, of Mrs. A. LAKSHMI PATHI, B.A., Mount Road, Madras.

1. There is no doubt much dissatisfaction with the state of law relating to the Age of Consent the first reason being the unsatisfactory age limits fixed. It is too much to expect a girl of tender years to give consent to an action the consequences of which she is not in a position to fully understand. The distinction that is made in the treatment of offenders within and outside marital relations is not consistent with the law of Equity and Justice.

I don't see any reason why a husband who cohabits with his wife below the prescribed age should be leniently dealt with as the nature of the offence is the same in both the cases. Further this law is inefficacious in the sense that it does not afford protection to those who really need it. In so far as it relates to the marital state it is absolutely ineffective and it has been almost a dead-letter. The application of this law could be facilitated only when a collateral law penalising child marriages is enacted. It is only an indirect method of putting down early cohabitation.

2. Feeling has been fast growing that an advance regarding the ages should be made on the present law. Even orthodox Hindu opinion is strongly in favour of raising the Age of Consent though they are much opposed to the raising of the age of marriage. The circumstances which justify an advance are primarily from the stand-point of the well being of the nation. This most deplorable and evil practice of early consummation which saps the life-blood of our men and women has been in season and out of season vehemently protested against. This custom being far from humanitarian has very often given rise to disastrous results and has told heavily upon the health of child wives and child mothers. The cry for raising the consummation age comes more pitiously from women for it is they who suffer most from the travail of early child-birth with all its attendant evils, namely early matricide, high infantile mortality and the prevalence of uterine and other similar diseases. As a result of this it is no wonder one finds the average age of life for a man or woman in India to be only half of that in the West.

Medical opinion asserts that the growth of consumption in our land has a great deal to do with this pernicious custom. That late consummation of marriage has a vital bearing on the social progress of a nation both physical and otherwise cannot be gainsaid. It guarantees a vigorous and virile race; it gives rise to strong bodied men and women and facilitates their moral and intellectual growth. Early consummation gives girls little or no chance of receiving the full benefits of education; hence opportunities to serve the world in more than one way are denied to them.

3. Cases of seduction or rape are fairly common in this part of the country. The amendment of the law of 1925 has not improved matters very much as the law is not so vigorously enforced and many such cases are not detected and brought to light. One of the ways by which the law could be made effective is to raise the Age of Consent to 18 or even to 20 because the greater the age the less is the chance of seduction. In the case of girls seduced for immoral purposes medical certificates ought to be insisted upon. A stricter register of births will also be of immense value.

4. Concerning marital relations the law of the Age of Consent has been of no practical value at all. Because it is meaningless without a corresponding law making child-marriages a criminal offence. This law in actual practice does not vouchsafe the interest of child wives from being molested by their husbands. So far as I know not even one case has been brought before the Court.

5. The period at which girls attain puberty is between the ages of 11 and 13. This is so in the case of communities where child marriages are much in vogue. Among the Brahmin and Vaisya communities in South India, the girls mature between the ages given above as it is they that very largely resort to this custom. In communities like the Kshatriyas, Kammas and Telugas of the Andhra Country, the average age of puberty is somewhat higher, say between 12 and 14.

6. Cohabitation before puberty is very rare, while soon after puberty, it is pretty common. Sometimes a girl is not nuptialised for a period of six months or even a year if she happens to mature in an inauspicious hour. This practice is observed only among the richer classes. I have heard of very few cases where girls are consummated before they complete 13 and I can say with certainty that none of these cases come within the knowledge of the Court.

7. As far as I know there is no religious tenet or injunction whatsoever to authorise consummation of marriage before puberty. There may be religious texts to support consummation at puberty but I am not aware of them.

8. 'Garbhadan' ceremony is usually performed but in certain educated families it is omitted. It coincides with the consummation of the marriage and in a great majority of cases it is done only after the attainment of puberty and generally shortly after the girl has matured. In Aryan days, the practice was to perform the 'Garbhadan' ceremony on the last day of marriage. But now in actual practice we find that marriage rites and 'Garbhadan' rites are separated and performed at different periods and the latter coincides with consummation.

9. Lay as well as medical opinion aver that the attainment of puberty is not at all a sufficient indication of physical development to warrant consummation. My own idea is that a girl just begins to develop only after 15 and she will be physically fit for married life only between 18 and 20. This will greatly ensure the life of mothers and the life of the progeny will much less be in jeopardy. *Susruta*, one of the oldest of the Ayurvedic physicians says that "if a man under the age of 25 marries a woman below the age of 16 the embryo is likely to abort. If it does not, the child will not live long. Even if it lives it will be a weakling."

10. An Indian girl will be in a position to give consent to cohabitation in an intelligent manner when she is able to understand and realise for herself the consequences of such an act. This she cannot hope to do if she is still a minor and minor girls according to Hindu law are those that are under 18. Giving consent to cohabitation is a matter which concerns the entire life of a girl and it will be extremely precocious of her if she does it before she attains majority. When a minor girl is unfit to decide any question relating to property it is unwise to expect her to give her consent to a thing which far more serious.

11. I don't speak from professional experience but as a social worker I have come across many women who have become victims to early cohabitation and early child-birth. A girl of 12 or 13 who married a man of about 60 became crippled for life, as she had the misfortune to lose her pelvic bone during delivery. I have also come across several other women who as a result of early child-birth have become subject to diseases like nervous debility and other ailments.

12. Early consummation and early maternity are very largely responsible for the high death rate in infants and mothers and this also results in premature death. This besides ignorance on the part of the people, bad sanitation, poverty and economic conditions has very much to do with the intellectual or physical deterioration of the people.

13. As regards marital state public opinion has considerably changed in favour of extending the Age of Consent and it has been more or less general.

14. It is the mothers of the girls that are very much against early consummation. Ladies have met at several Conferences and unanimously passed resolutions raising the Age of Consent, to 16. It is the women in particular that feel the imperative necessity of such a reform as this, because the evils of the system of early consummation have become very perceptible to them.

15. It is extremely difficult to estimate the age of girls between 13 and 15, but beyond 16 one can easily tell with certain amount of accuracy. The best way to get at the exact age is to maintain a register of births in a more strict fashion.

16. The higher the age the less is the margin of error and it is easy to approximately fix the age after 15 or 16 when the girl begins to develop.

17. I wouldn't make any distinction as regards punishment for offences for extra-marital and marital because I feel that a married man who cohabits with his wife below the prescribed age should be as severely dealt with as a stranger.

20—21. To better the social conditions of our nation I would not rest contented merely with education and social propaganda but to accelerate the social progress, I would call in the assistance of penal legislation to obtain the desired end. In my opinion penalizing child-marriages and raising the age of marriage by means of legislation will produce far more satisfactory results than fixing a higher Age of Consent for marital cases. Social reform is moving at a very slow pace and we shall have to wait till doomsday for the entire nation to get educated and to get rid of caste prejudices and many a traditional custom. But both kinds of legislation will always serve in goodstead and both are salutary measures. Marriage legislation penalizing child-marriages will be a more direct and easier method of putting down early consummation than it would be possible by raising the Age of Consent.

Oral Evidence of Mrs. A. R. LAKSHMI PATHI, B.A., Harris Road, Madras.

(Madras, 23rd November 1928.)

Chairman: Are you connected with any social reform movement?

A. I was last year the Secretary of the Hindu Social Reform League of Madras. I am a member of the Women's Indian Association. Though I do not belong to the executive, I may say that I am an active member.

Q. I thought you were connected with the Youth League also?

A. I understand I have been elected vice-president of the League though the information has not been communicated to me officially.

Q. Have you occasion to move among the middle class orthodox ladies in Madras?

A. Not just at present, but a few years ago while I was living in another part of Madras, in Triplicane, I had every chance to move with the orthodox Iyenger section of the Brahmin community. The Iyenger section is a highly orthodox section and I used to move with them very frequently.

Q. In what connection?

A. They were all neighbours and I had occasion to notice their inner life.

Q. What community do you belong to?

A. We belong to the Vaishnav community. We are Telgu Brahmins.

Q. Have you had any occasion to know what the orthodox women of the middle class feel as regards their girls becoming mothers below 16? What is their present practice?

A. As far as Madras is concerned I think even the orthodox people would not mind marrying their girls at 13 or 14. But as far as rural areas are concerned I think they have not yet come into touch with modern civilization and I don't think the ideas of social reform have spread into the rural areas so much as to induce them to marry their girls at 13 or 14. I feel that the rural areas are not educated enough. It is left to the social reformers to do this sort of work.

Q. Do you think that the idea about pre-puberty marriages of girls is very deeply implanted in the middle class Brahmin women?

A. Not at the present time. I think it is gradually changing, it is giving way to modern ideas.

Q. Do some of them realise that it means evil to their girls?

A. Their domestic troubles, the difficulties that their daughters have to undergo when they go to their mother-in-law's house I think give them a lesson and would prefer to marry their girls late. If they were left alone they would think that the girls would have had a much happier lot in life.

Q. We are told it is ladies who are very tenacious about marrying their daughters before puberty. They would like to marry away their daughters and see them off their hands soon. Is that correct?

A. It is not that they are tenacious, that they are stubborn to conform to pre-puberty marriages but I think it is the fear of social ostracism and the fear that the people would accuse them and won't take them into society that they have to conform to custom.

Q. Do you think it is a growing class of women who feel the social pressure?

A. No, I don't think so.

Q. Is there only a small percentage of women who feel that?

A. I think so.

Q. Would you put it at 10 per cent. of Brahmin women?

A. I think I would put it as high as 25 or 30 per cent.

Q. Is there any institution here in which the orthodox women speak out their minds?

A. There is an association called Hindu Lakshmi Ammal's Sabha where the orthodox ladies speak out their mind. But Lakshmi Ammal's activities are devoted chiefly to giving lectures and doing that sort of work. It is an educative Sabha. They concern themselves mostly with the literary aspect of the question. They teach all girls, reading and writing and particularly to married women. It is more or less an intellectual or literary association. Of course it also concerns itself with social reform.

Q. Do you know of any meeting conducted under the auspices of an orthodox lady?

A. I remember about half a dozen meetings were held in Madras by the orthodox section.

Q. When was that?

A. That was recently, about 4 or 5 months ago. They all vehemently protested against Sarda's Bill.

Q. Did they send any resolution to Government?

A. They showed their disapproval emphatically and sent copies of the resolution to the Home Member. I was present at one of their meetings. They were very vehement in denouncing this legislation.

Q. Who presided?

A. Lakshmi Ammal presided.

Q. How many women were present?

A. About 50 women.

Q. Did anybody else speak except Lakshmi Ammal?

A. One or two ladies spoke.

Q. They spoke in Tamil.

A. Yes, I can understand Tamil.

Q. What were their objections, do you know? Were they religious?

A. Religious mainly. One of the reasons was that with a higher age of marriage the girls would be led away, seduced and eloped. That was their only argument, so far as I could possibly know.

Q. What is the minimum age of marriage that you would suggest?

A. I would have it 18, if possible. All the women's conferences have put it down at 16. I will put it at 18 or even 20.

Q. But you will see that it is to be a law not only for the advanced section.

A. That is my personal view.

Q. 18 might be the ideal age but would you recommend that for purposes of legislation for everybody and as a beginning that we are trying to make?

A. Of course 16 may be the first step towards further reform. But I find the question of fixing the age of marriage arises only among the Brahmin community.

Q. But there are many communities where girls are married and consummation comes before 16, besides Brahmin community? There are many other classes among whom marriage takes place soon after puberty and consummation takes place at 13 or 14.

A. I think consummation takes place between 15 and 16 and not between 13 and 14.

Q. Among the Brahmins when does it take place?

A. It is very often between 13 and 14.

Q. Do you think that some period elapses between puberty and consummation?

A. Usually among the Brahmins the period allowed is 6 months. It is very seldom a year.

Q. But why is the period allowed? Don't the mothers feel that it is very unsafe to keep the girl in her own house without consummation?

A. Sometimes it may be that the girl matures at an inauspicious hour and she has to be kept for 6 months or a year. She is not allowed to see the husband.

Q. Are there any economic causes also, asking for money and trying to settle the bargain?

A. That is very seldom.

Q. I have heard that it affects a great deal. That is the second occasion when dowries can be extracted from the other side.

A. I don't think the girls are kept in the home of the mother because of the dowry.

Q. Are you in favour of the law of marriage at any cost?

A. Certainly, we want legislation for marriage.

Q. Supposing you have no marriage law, would you be satisfied if the age of consent is fixed at 16?

A. No, I don't think it would work, without a corresponding law for marriage.

Q. You rely upon marriage law as No. 1 remedy.

A. Yes. That is more important than the age of consent law.

Q. Have you thought of any means by which the orthodox opinion which requires pre-puberty marriages could be allowed to prevail and yet we should have successfully put off consummation?

A. I don't think it is possible. It may be secretly done if there is any fear of punishment or fine.

Q. You don't think that the age of consent will by itself be effective?

A. I don't think it would work, satisfactorily unless you support it by marriage law.

Q. Suppose you have marriage law at 13 and at the age of consent at 16 would that do?

A. I think the ages must correspond.

Q. Why I suggested 13 was because the present practice was 13 even taking into consideration the cases of concealed puberty and if consummation could be put off by some means till 16 then perhaps we might achieve our object.

A. I don't think a Brahmin would keep the girl without consummation till 16. The orthodox gentleman will say, I am sorry I cannot keep my girl till 16, there is the fear of the girl being seduced.

Q. You don't seem to think that there is any other remedy.

A. I don't think.

Dr. Beadon: When you were moving among the Iyengar girls have you had any occasion to talk about the marriage of their daughters? Can you say, what did they feel?

A. It was 6 or 7 years ago when public opinion was not ripe.

Q. You think there has been an advance in public opinion now?

A. I think much dissatisfaction has been felt. We find a great awakening. Even among the Iyengar girls most of them hold advanced views.

Q. Do you know of any who married their daughters late?

A. Yes.

Q. Many?

A. Not very many.

Q. How many cases do you know of late marriages here in the city?

A. As far as I know about 10 or 15 marriages have taken place.

Q. During the last how many years?

A. During the last 5 years.

Q. Do you think it is really owing to fear of the girls going wrong that they marry their girls early?

A. It is an apprehension on the part of parents. I don't think there is immorality to be attributed to late marriage.

Q. Have you heard any case of scandal?

A. I don't think there are many cases. Just a stray cases there are of the girls having been misled.

Q. Are there any large number of young widows?

A. Among the Iyengars.

Q. Brahmin community as a whole?

A. I can't tell you the percentage.

Q. Would you say in every second or third home there is a widow?

A. I can't tell you. I am not very good at figures.

Q. Do you know whether there is a large number of girl widows under 15 or only a few?

A. Well, I have seen the widows that are lodged in the widows' Home here. You get a chance of seeing all the widows of the Presidency there and I think girl widows below 15 would be about 20 or 30.

Q. In answer to question No. 11 you say a girl of 12 or 13 who married a man of about 60 became crippled for life. Was that a Brahmin girl?

A. Yes.

Q. Was that a recent case?

A. I have not seen that personally. My husband is a medical man and he told me that.

Q. Do you know of any case within the last 4 or 5 years in which a girl has been damaged by early consummation?

A. I think wherever there is child marriage the girls are bound to be weak, they are bound to get crippled, they are bound to catch some disease or other whether it be nervous debility, nervous break-down or tuberculosis. Whether it be now or 15 years back, where this practice obtains there is bound to be break-down of health. I have come across three or four women who have actually succumbed to early child birth.

Q. Within the last 5 years?

A. Yes.

Q. Girls of what age?

A. 15 or 16.

Q. Was that in the case of first child-birth or shortly after the child-birth or the second birth?

A. I think it was due to quick succession of child-births and early consummation. The girl does not begin to bear children soon after consummation. It may take sometime, a year or two.

Q. Do you think there are many cases in which puberty is concealed?

A. In very many cases they are afraid of public opinion and just conceal the fact of the girl having matured.

Q. Do you think there are many cases or only just stray cases?

A. I think the number of such cases is on the increase.

Q. Do you think they are very careful about concealing it?

A. In the towns they are not afraid of public opinion and they do not conceal the fact. In the villages, I think the fact is concealed because they are very much afraid of social ostracism. There is the fear of being sent out of the society in case they do not conform to custom.

Mrs. Nehru: Are there any panchayats here in the villages?

A. Panchayats are being formed.

Q. I mean the ancient caste panchayats, not recognised by Government?

A. Ever since the Panchayat Act came into operation they are trying to revive the caste panchayat. I, for instance, have been deputed by the District Board, Chingleput to do some work in that direction.

Q. Do women ever become members of these Panchayats.

A. I do not know of any woman being put on the panchayat, that may be done in course of time.

Q. Why you are of opinion that there should be no difference between marital and extra-marital cases as regards punishment.

A. I do not see why a husband should be easily let off. The crime is just the same. If he consummates the girl before the prescribed age, I think, the husband is equally culpable.

Q. In the very interests of the girl, the difference has to be made. If the husband is sent to jail will not the girl's life be ruined?

A. If the husband did not have the common sense why should he not be punished?

Q. You are prescribing 16 as the age of consent. You know there are many cases of consummation below 16 and even if we pass the law those cases will continue. Will it be in the interests of society to send so many people to jail?

A. Mere fine won't do.

Q. But do you recognise the difference between the two cases?

A. I do not make any distinction and I don't think any distinction ought to be observed.

Q. In spite of the fact that it won't be in the interests of society to send so many people to jail.

A. I think, if the husband did not have any regard for the health of the girl and the progeny and he cohabited with his wife at a very early age he ought to be sent to jail.

Q. Looking at it from the point in view of making the law practical and looking at it from the moral point of view—would you still stick to your opinion?

A. Yes.

Q. Can you tell me why so far cases of this nature have not come to court?

A. People don't take notice of it.

Q. And if the age is raised to 16 would the people be willing to take notice of them?

A. When there is the fear of law

Q. The fear of law is there even now; why don't the people make complaints?

A. They don't take enough interest, public opinion is not educated to take notice of it.

Q. Is it because they want to observe the old custom or because the law is impracticable?

A. Because of the impracticability of the law, I think.

Q. Then you see that if the boy is punished the girl suffers. There is every likelihood of the man coming back from prison and marrying another wife and discarding his first wife altogether, and therefore we have to make a distinction between marital and extra-marital cases if we want to make this law operative at all. If you only want it to be on the statute book you provide any punishment and fix any age. If you want to make it practicable you cannot possibly treat the two cases alike because in nature they differ. You think therefore that there is a difference between the two kinds of cases and if so what punishment would you advise?

A. If you ask me to modify my opinion on the matter I would have to put down very heavy fine in the case of marital relations.

Q. As at present the punishment up to 12 is 10 years' rigorous imprisonment, transportation for life and between 12 and 13 it is two years' simple imprisonment; the risk-entailed upto 12 being much more and it being more necessary to protect the girl upto that age; the punishment provided is severer. Considering this would you suggest a graded punishment, more when the age is low and less when it is over 12?

A. I think below 12 the punishment should be the same as it is and from 12 to 16 the punishment should be lighter.

Mr. Mudaliyar: In the majority of cases of early marriage the age of the boy is below 18 and the girl is 12 or 13 and it is at that period that this consummation is arranged by the parents. Do you think it is fair to punish the boy at all who is as much a creature of circumstances and the social system?

A. In a case where the boy is below 18 I would not punish the boy. Pressure is brought to bear by the parents and it is the parents that are responsible for the consummation of marriage and not the boy himself.

Q. Would you then propose a punishment for the parents who arrange consummation?

A. I would.

Q. What punishment would you advocate?

A. It is very hard for me to tell. It is for a lawyer to answer.

Q. It is a matter in which you should be interested.

A. Why should I be less severe with the parents who are responsible for bringing forth consummation. The same punishment that we give to a boy over 18 should be given to the parents.

Q. Both the father and the mother?

A. Not for the mother. Because in a Hindu family the mother has no opinion of her own to express. It is very often the father who arranges the whole thing.

Q. Do you not think that in this matter the mother is the chief person to arrange it?

A. Arranging of the whole show depends upon the father and not the mother. Practically the mother has no voice except perhaps she gives consent.

Q. For which may not she be fined?

A. No.

Q. It has been said by the men witnesses that have come forward that with rare exceptions it is really the ladies that are responsible for this early consummation.

A. I think they have not understood the feelings of the women.

Q. You think the mother has no voice at all and that the mother is not anxious to have consummation.

A. She is anxious but she does not suggest that consummation should take place at a very early age.

Q. The evidence divides into two, mothers and mothers-in-law, and the evidence is that mothers-in-law want to hurry up and they are directly responsible for it.

A. Well, I don't think so.

Q. You would not altogether exculpate the mother of the boy at any rate?

A. Not altogether.

Q. You are a Telgu Brahmin lady?

A. Yes.

Q. Among the Telgus social reform has been long prevalent, much earlier than in Tamil parts of the country. Is it so?

A. Yes.

Q. Is Widow marriage also much more frequent among the Telgu Brahmins than among the Tamilian section of this Presidency?

A. Yes.

Q. May I take it that your evidence is representative more of the Telgu opinion and feeling than of the Tamil opinion.

A. Yes, you can.

Q. Is Tamil opinion prepared to go as far as you have advocated?

A. I don't think so. I don't think that the Tamil people are prepared to go ahead as much as the Telgus have gone.

Q. Taking that into consideration would you stick to your opinion? Do you want to pull up the Tamilians and bring down the Telgus.

A. Not that.

Q. Do you want to make the Telgu realise that they have to hasten slowly?

A. That has always been their policy. They want to go very cautiously.

Q. Would you force the pace on the Tamilians?

A. I think I would, to keep them in line with the Telgus and to have one uniform law operating.

Q. I think you suggest that there should be no distinction at all between the case of a husband and a stranger. If that is so why do you recommend different ages for the two?

A. In marital cases I think I will recommend 16.

Q. In marital cases it is the health point that is under consideration but in extra-marital cases larger and more important questions are at stake, would you then advocate different ages and different punishment?

A. Yes, I have modified my opinion.

Mr. Mitra: Are you for fixing the minimum age for marriage?

A. Yes.

Q. What age do you recommend?

A. I would fix it higher than 16 in the case of girls and 25 in the case of boys if possible and if that is not possible 21.

Q. You are aware that there is an orthodox class—their number may be very few—who believe that there is a religious injunction to have marriage before a certain age. Are you prepared to make exemptions in their case?

A. I would not exempt the orthodox section in the interests of the girls.

Q. If they put their case in a way that you may have consummation law at a higher age for the health of the girls but they should be exempted from the operation of marriage law, would you be satisfied?

A. No, I do not think that would work.

Q. You know that amongst the Brahamans the marriage is celebrated at an early age and consummation takes place two or three years after. Is it not a fact that marriage is before puberty and consummation takes place after puberty and does not that show that they wait at least for some months for consummation?

A. Yes.

Q. Why do you think it is impossible to postpone consummation if marriages are permitted to be celebrated before attainment of puberty? You can make the consummation law as strict as possible to conform to the orthodox view.

A. There is the fear of parents bringing about consummation privately.

Q. Do you think these parents generally bring about consummation after marriage but before puberty—both among the Brahamans and Vaishas?

A. The law of consent is not working.

Q. I think you say in your evidence that consummation does not take place before puberty. So as a matter of fact marriages are before puberty and consummation takes place after puberty. Is it not so?

A. Yes.

Q. Supposing a girl is married at 14 would you have any objection to wait for 2 years?

A. No.

Mr. Bhargava: I understand that in your opinion after sometime all this dissatisfaction will disappear if a law is enacted?

A. Dissatisfaction will disappear if the marriage age is raised.

Q. Will this law be obeyed generally?

A. Yes, but side by side with it there ought to be education and propaganda.

Q. So that whether there is dissatisfaction or not and whether the religious injunctions are violated or not you are for having a marriage law in the national interests.

A. Certainly.

Q. I understood that you advocated that the age of marriage be fixed at 18 but as a compromise you agree to 16? Is it so?

A. Yes.

Q. Suppose your suggestion is accepted and marriage age is fixed at 16 and the age of consent at 18, then there will be many girls who will be giving active consent for consummation of marriage; would you punish them?

A. If the law of age of consent is going to be fixed at 18, the girls ought to be punished.

Q. What punishment would you give?

A. I am afraid I cannot suggest anything.

Q. You are of opinion that so far as marital cases are concerned, fine would be a sufficient punishment to the offenders?

A. Yes.

Q. If there is a provision for imprisonment also generally it acts as a great check especially for the rich people but generally in first offenders cases only fine will be inflicted.

A. I think it is not advisable to take recourse to punishment by imprisonment; fine only may be retained.

Q. But the fact that imprisonment can be inflicted is a great deterrent.

A. Yes.

Q. Now when it comes to parents you are of opinion that the mother of the girl should not be punished. In most cases it is the parents of the boys who bring pressure on the parents of the girl to allow her to come to their

house and generally the father of the girl does not even know when the consummation is going to take place and in many cases he lives at a great distance from the husband of the girl. In these circumstances would you advise making the father of the girl responsible?

A. In such cases the father of the boy deserves punishment.

Q. So far as marriage law is concerned generally these marriages are celebrated by the parents of the boys and parents of the girls and the punishment proposed in Sarda's Bill is one month's imprisonment or fine. Would you like this provision to be retained there?

A. I am sorry I cannot express an opinion on this question.

Q. In reply to question 3 you say that cases of seduction and rape are fairly common in this part of the country. May I know the ages of the girls seduced?

A. I cannot give the precise answer to that because I have got my information from newspapers.

Q. You say the greater the age the less is the chance of seduction. May I take that with age the chances of seduction decrease?

A. Yes, the girl is able to decide for herself. If a girl of 16 or 17 is seduced by a man she will have her own discretion to use.

Mr. Nair: We were told by a Brahman witness of high position and influence that women of all ages are incapable of selecting their husbands. Do you agree?

A. I think girls of 16 or 18 are able to decide for themselves in the matter of choosing a husband. It may be so in the case of child girls of 11 and 12.

Q. Would you therefore like post-puberty marriages?

A. By all means I would advocate it.

Q. Would you like that women should have a voice in the selection of their husbands?

A. Yes.

Q. Do you think it is wise?

A. Yes.

Q. Some people do not think it is wise?

A. In the case of educated girls there is no harm.

Q. I understand that you have seen the Brahman houses. We are told that Brahman ladies are the queens in their houses and their lords very easily submit to them. Is it true?

A. In all other respects she is a queen of the household but when it comes to money matters she has no voice.

Q. What is the position of women among the Hindus and Brahmans? Is she regarded as an inferior person?

A. It depends on the husband. If he is uneducated he thinks her to be inferior but if he is educated and cultured he regards his wife as an equal. It depends on the mentality of the husband but I do not think any husband looks down upon his wife.

Q. But she occupies an inferior position in the society as compared with the man.

A. I do not think a Hindu woman is looked down as an inferior. Of course in a divided family she is absolutely free but in a joint family the daughter-in-law holds a position of inferiority.

Q. Do women generally favour the fixing of a minimum age of marriage?

A. More than 50 per cent like it. They would fix the age at 15 or 16.

Q. Don't you think that it would be rather dangerous and sudden jump to fix the age at 15 or 16?

A. I do not think there is any danger to be apprehended by that.

Mr. Kadri: In paragraph 3 of your statement you say that a stricter register of birth will be of value. I suppose you have experience of the way in which registers of birth are kept? What as you think it?

A. In villages they are not very strict about registration of births.

Q. Would you like parents to be penalised for failure to report a birth?

A. I would not like to penalise the parents. The authorities have to go about and collect information.

Q. In paragraph 4 you say that concerning the marital relations, the law of the age of consent has been of no practical value at all. Against this view we have been told that it has been of use in three ways. Firstly it has had an educative value. People know that the statute is there and they would be committing an offence if they break it. Secondly we are told that Indians are generally law abiding people and that if they find the law on the statute book there will be a desire in their mind to conform to it. Thirdly we are told that in the case of a girl when her father is anxious to see to her health and safety this law would be instrumental in his case, to tell the son-in-law who asks for the custody of his wife that the law comes in his way and therefore he could help it. Would you still say that it has no practical value at all?

A. I was thinking that it would not work until it is supplemented by the marriage law.

Q. It is doubtful if the Sarda's Bill will pass in the Assembly. In that case would you think that if we raise the age of consent, it will work satisfactorily?

A. I am not very much impressed with the idea of making any enquiry into the age of consent but I would direct my attention towards marriage legislation.

Q. If it is not possible to have marriage legislation would you like to have the age of consent law?

A. Yes, but I do not know one case which has been brought to court.

Q. Some of these have been very bad cases; I tried one or two cases in Bombay.

A. In the Madras Presidency I do not think many cases have come to court.

Q. Even in the Madras Presidency there were 3 cases.

A. But even then they are very rare.

Q. On the other hand it is said that there are very few cases of consummation below 13 so that if cases do not come before the courts it does not mean more cases take place.

A. There are very many cases of consummation between 12 and 13 but below 12 they are rare.

Q. What is the period which generally elapses between marriage ceremony and garbhadau ceremony?

A. Six months and in some cases a year and in some cases it is soon after puberty.

Q. Some witnesses have told us that it is 3 years after puberty. What do you say to that?

A. That is very rare.

Mr. Kakhuiya Lal: You have recommended 16 for marriage legislation?

A. Yes.

Q. Do you think it will be generally acceptable to the Hindu and Mohamadan communities?

A. I do not think it will be much opposed; Mohamedans do not marry their girls before 16.

Q. Among Moplahs many marriages take place between 8 and 12 and sometimes there is early consummation.

A. Mrs. Masharuddin told us that Mohamedans in Hyderabad and in this Presidency are married at a late age.

Q. Do you think it will be acceptable to the people generally?

A. Orthodox opinion is very strong against it.

Q. If we at once raise the age to 16 will it give rise to very strong opposition and discontentment?

A. It is likely.

Q. Would you be satisfied with the proposition suggested by Sarda's Bill namely that the age should be fixed at 14?

A. I will only be satisfied with 16 but as a compromise in certain circumstances 14 is better.

Q. In answer to Mr. Bhargava's question you have said that if the age is raised to 18 or 20 and if the girl is a consenting party she should be punished?

A. Yes.

Q. If the age of consummation is fixed at 16 would you have any punishment for either the boy or the girl?

A. No; because they are minors.

Q. If the boy is above 18 it is only then you would punish him?

A. Yes.

Q. And for the girl?

A. She should be punished if she is over 18.

Q. Whether it is a marital or extra-marital case?

A. I would make the girl punishable in extra-marital cases.

Q. In extra-marital cases you recommend 18. Do you propose that both the girl and the boy should be punished if the girl is a consenting party?

A. Yes.

Q. If a boy of 18 cohabits with a girl of 14 would you only punish the boy?

A. Yes, he ought to be punished.

Written Statement, dated the 5th September 1928, of Mrs. ALAMELU MANGATHAYARAMMAL, Honorary Magistrate, Madras.

12. Early consummation and early maternity is a *predominantly chief* cause of the high rate of maternal and infantile mortality and the consequent deterioration in the intellect or physique of the people. The fact that the present generation is comparatively weaker, less in stature and bodily strength, and poor in vitality is due mainly though not wholly, to this custom of early consummation which results in early maternity.

13. Due to economical causes, we are forced to postpone the date of marriage for some years. In educated classes, the knowledge of physiology, medicine and vital statistics, has enlightened their opinion. In labour classes, marriages generally are late between the ages of 18 and 20, due to economic grounds. The opinion of a very small section, the orthodox section, of the Brahmin community and Vaisyas is still conservative. Their opposition is due to ignorance of the laws of health and ill-digested knowledge of Hindu Religion.

14. The present generation of women do not. The past generation favour it on various grounds. The old ladies want to have it finished during their lifetime, so that before their death they might have the pleasure of seeing grand-child or a great-grand-child. It is also due to their ignorance of the laws of health and the superstition based on the old custom, that girls who have attained puberty should not be kept long in the house. With the

increased spread of literacy among women, and with the advancement of their education this will disappear.

17. I would favour the separation of marital and extra-marital offences. I would prescribe a more severe punishment in the case of extra-marital offences and less severe one in the case of marital offences. The present punishment for extra-marital offence is sufficient. In the case of marital offence, the punishment ought to be lessened, the imprisonment being always simple for 2 years or with fine or with both. The parents of both parties must be invariably charged as abettors, and the onus of proving that they were innocent must rest heavily on them. The abettor must be punished more severely than the principal offender. For, in the marital state, the offence can be committed more often than not, only with the active connivance of the parents.

18 and 19. There ought to be a difference. Otherwise, the police in this country as it is constituted at present, will often trespass into the marital state and disturb the family harmony, out of mere vengeance. In marital offences. (a) The whole trial including the preliminary enquiry should take place in camera. (b) There ought to be a preliminary trial by the District Magistrate and if there is a *prima facie* case it ought to be committed to be tried by a court of session. (c) That only a police officer of the rank of a Deputy Superintendent of Police should conduct the preliminary enquiry. (d) The police can take cognisance of the offence only on the report of the girl, or her parents, or in their absence the guardian of her person or her custodian or the order of a District Magistrate on the information furnished to him.

20. The minimum marriageable age of girls must be raised. Raising the age of consent in marital cases will not serve the purposes. Any breach of the law will not see the light of day. Both the parties will actively abet and connive at the suppression of the crime. When once the parties are married, who can say and who can prevent effectively the consummation of marriage below the age of consent. It will be laying the axe not at the root but at the top. By raising the minimum marriageable age of girls, the evil can be more effectively checked so far as the marital state is concerned.

21. To secure the object in view, more reliance must be placed on the strengthening of the penal law than on the progress of social reform by means of education and social propaganda. It is by legislation alone that the evil can be checked to a very great extent *within a short space of time*. Would Sati have been abolished if reliance had been placed entirely on social reform? Penal legislation is vitally necessary to check this evil.

Oral Evidence of Mrs. ALAMELU MANGATHAYRAMMAL, Honorary Magistrate, Madras.

(Madras, 23rd November 1928.)

(Vernacular—Tamil.)

Chairman : Are you connected with any social reform?

A. I have been connected with social reform for about 25 years.

Q. Have you had any occasion to move among orthodox Brahman ladies?

A. Yes.

Q. Were you present at any of the meetings supporting Sarda's Bill or Sir Hari Sing Gour's Bill?

A. I was present at one of the meetings.

Q. How many ladies were present in that meeting?

A. More than 100.

Q. Were there any orthodox ladies present in any of the meetings?

A. Orthodox ladies never attend such meetings.

Q. Do you know of any meetings opposing these Bills?

A. I have heard of one meeting.

Q. You said that you were present at so many meetings. Do you remember any other meeting in support of these Bills?

A. There were no ladies meetings but there was a meeting of men at which I myself supported these Bills.

Q. Do you know if that meeting was in support of Sarda's Bill or Gour's Bill?

A. I do not know whether it was in connection with Sarda's Bill or not but these were general meetings supporting social reform movements.

Q. Are you sure that the meeting at which 100 ladies were present was for Sarda's Bill?

A. I do not remember.

Q. Do you move amongst the orthodox Brahman women?

A. To a certain extent.

Q. And among the Vaisha women?

A. Yes.

Q. Have you had any occasion to talk to Chetty women whether they would like to marry their girls late?

A. Recently I have had no opportunity to talk to them on this matter but about 10 or 12 years ago there was a meeting of Arya Vaisha Women where they decided not to marry girls very young. On that occasion they compelled me to speak on the evils of early marriage.

Q. Was any resolution passed about the age of marriage at that meeting?

A. No, age was not settled.

Q. You have not answered the first 11 questions, is that an accident or you mislaid a part of the questionnaire or you did not like to do it?

A. I omitted to answer those questions for want of time.

Q. Are there child marriages in the Vaisha community?

A. No.

Q. When does consummation take place?

A. Generally between 14 to 16 years.

Q. Have you seen girl mothers and their babies amongst the Brahmans?

A. Yes.

Q. Have you seen about a dozen girl mothers in your own community?

A. Yes.

Q. Comparing the two would you be able to say that girl mothers in your community are better off in health than in any other community?

A. Both the mother and children in our community are stronger than those of Brahmans.

Q. Do you prefer the law of marriage penalising marriages below a certain age?

A. Yes, but the penalty should be warning only.

Q. Would you like the age of consent law to be raised?

A. If an age of marriage is fixed there would be no necessity for age of consent law.

Q. If a marriage law is passed fixing the age at 16, do you think there would be any great dissatisfaction among the Brahmans and Vaishas?

A. There will be opposition from those classes just as there was opposition when Sati legislation was passed but it will be only for a short time.

Q. At the time of Sati the better educated and influential section of the public joined in support of this legislation and had it passed.

A. Similarly if legislation on these lines is passed it will be for the good of the country. Similarly with reference to the widow remarriage bill there was a great deal of opposition but Government thought of the few who would be benefitted and took the opinion of those classes who were affected and passed the legislation.

Dr. Beadon : In your court do you deal with cases of marital trouble due to early marriage and early consummation?

A. Cases like that do not come to our court.

Q. Have you come across cases in which girls have been abducted or seduced; for instance cases in extra-marital cases?

A. I have come across one or two cases like that.

Q. What were the ages of the girls?

A. About 16.

Q. We are told that if the age of marriage is raised there will be a great deal of immorality. In the communities where the age of marriage is 16 or over is there a considerable amount of immorality?

A. Now there are castes other than Brahmins, like the Mudaliars and Chettis where the age of marriage is high and the girls are married after puberty. We have not heard of the girls being immoral in these communities. Sometimes the girls are unmarried till 20 or 22.

Mrs. Nehru : Is widow marriage allowed in your community?

A. People of my caste passed a resolution at a conference in Coimbatore saying that widow marriage is necessary. And one or two marriages have been performed according to that resolution, and they have also decided to permit such marriages. Amongst Naickers and Chettis and amongst some Brahmins who are social reformers widow-marriages do take place.

Q. But what I want to know is whether widow-marriage is allowed in your community according to your ancient customs?

A. My caste is not one of those amongst whom widow-marriage is permitted. But now-a-days we are changing with the times and people are having widow-marriages.

Q. In your statement you say that marriages amongst the labouring classes take place at the age of 18 to 20. By labouring classes do you mean agricultural classes?

A. Yes.

Q. You advocate charging the parents as abettors. What punishment would you give them?

A. In my opinion the punishment need not be given by Government. Social reform associations might inquire into the cases and give such punishment as they think proper. I do not want that these people should be treated like other ordinary criminals.

Q. What do you mean then when you say that parents should be charged as abettors?

A. Because it is the parents that marry the children they should be given some punishment. Fine would be sufficient. I would not advocate imprisonment in such cases.

Q. What punishment would you advocate for the husband?

A. The husband should not be given imprisonment as the girl has got to live with him afterwards. Even simple imprisonment will be too much because the girl will suffer I think a heavy fine would be sufficient.

Q. Would you make any difference as regards the age of the girl?

A. That may be done. Graduated punishment may be given.

Q. Would you be in favour of a preliminary investigation by a District Magistrate before a prosecution is launched?

A. I think social reform organisations might first investigate into the case and on their report the District Magistrate might proceed with the cases.

Q. You have said that the right to make complaints might be restricted to the girl or her parents. Do you think they will take advantage of that?

A. There have been one or two cases like that. If they come to know the suffering involved, I think they will come forward with complaints.

Q. Do you think the social reform organisations whom you want to entrust the investigation can be also given the power to complain?

A. They will not undertake the responsibility. It will be difficult for them to launch and continue the prosecution.

Mr. Mitter: Would you like to have ladies to be associated in the trial of these cases as assessors?

A. It will be better if they sit as judges along with Magistrates.

Q. Would you prefer a special kind of tribunal for these cases, for instance special matrimonial courts?

A. There will not be work enough for a special court for this purpose. The present courts might devote a particular time for these cases. If however necessity arises later on for a separate court, it might be then thought of.

Q. Will orthodox people prefer the age of consent law to the marriage law?

A. They will object to the age of marriage being fixed at 16, more than for the age of consent.

Q. Are you willing to give exemption in particular cases where orthodox people say that they believe that there is religious injunction?

A. If such orthodox people consider it absolutely necessary, such exemption should be given.

Mr. Bhargava: Do you want to exempt all classes amongst whom there is early marriage from the operation of the law?

A. There are only a few communities who will ask for exemptions and we can grant them.

Q. Supposing these people had asked for exemptions in the case of Sati and widow remarriage, would you have given them exemption?

A. Personally I am not for exemptions in such cases at all.

Q. Is it the duty of the Government and the legislators to pass a law requiring all Indians not to marry before a prescribed age?

A. Personally I think that such a law is necessary.

Q. In paragraph 17 (d) you say that the police can take cognisance of the offence only on the report of the girl or her parents, or in their absence the guardian of her person or her custodian or the order of a District Magistrate on the information furnished to him. Do you want to keep the law as it is or do you want any modification?

A. I want that the girl, her parents and guardians should have the right to bring in complaints themselves. But other people should be required to make a complaint to the District Magistrate and the District Magistrate will enquire into the cases and launch prosecutions if necessary.

Q. You say that the investigation of the case can be in the hands of social reform organisations. Do you not think that judicial or police officers would be able to conduct the investigation in a more efficient manner?

A. I think it can better be in the hands of social reform organisations.

Q. Do you think that the whole organisation will investigate or would you like that they should appoint a small committee from amongst them to do it?

A. I think a Committee would be better.

Mian Mohammad Shah Nawaz : Would you exempt Brahmins from the operation of the law if they are against it, or would you exempt the Vaisyas also?

A. The law is intended for the benefit of all, and I would not exempt any community specially. But I think if there is a huge outcry from the community we have to exempt it.

Q. But the Brahmins might influence the other castes, whereas if the law is passed they might readily follow the law.

A. I do not want that the Brahmins should be exempted as a community.

Mr. Kadri : You say that opposition to the law is due to ignorance of the laws of health and ill-digested knowledge of Hindu religion. Can you give us any texts which age to support post-puberty marriage and raising of the age of consent?

A. I cannot quote texts. But the Sastras say that certain ceremonies can be performed by the girl only after she has attained puberty. I think that should hold good in the case of marriage also.

Mr. Kanhaiya Lal : Do you not think that if we exempt one community from the operation of the law other communities would also ask for exemption and the object of the law would be frustrated?

A. I am not for exemptions personally.

Q. You have said that you would fix the age of marriage. Would you suggest any age for consummation?

A. No.

Q. Supposing a man breaks the law of the age of marriage and there is no law for consummation, would not then the very object of the law be frustrated?

A. I agree that the absence of a law for consummation would be disastrous.

Q. There is opposition to fixing the age of marriage at 16. Would you therefore as a first stage fix 14 for marriage and 16 for consummation?

A. In the interests of the country I would not have the age of marriage at less than 16.

Q. Supposing it is not possible to have the age of marriage fixed at 16, would you support the proposal that the age of marriage should be fixed at 14 and the age of consent at 16?

A. First of all I would not agree to the age of marriage being fixed at 14, but if it has got to be fixed at 14, I would have the age of consummation fixed at 16 complete.

Written Statement, dated the 22nd August 1928, of Dr. (Mrs.) LAZARUS, Superintendent, The Government Victoria Caste and Gosha Hospital, Madras.

2. If the age of consent were raised as proposed, it would lower the Maternal and Infant Mortality rate.

3. Crimes of seduction or rape are frequent here.

No. Statistics enclosed.

Better notification and vigilance. Inclusion in school curriculum under civics.

4. Has stimulated public opinion among the educated classes by postponing the consummation of marriage.

5. Twelve or 13 Brahmins, 14 or 15 among the labouring classes, 13 among non-Brahmins.

6. Cohabitation is common among Brahmins in cases of delayed puberty of a girl of 15 may be sent to live with her husband before she reaches puberty with the hopes that she may either conceive or attain puberty thereby.

Six months is generally the period after puberty within which cohabitation is insisted on among those classes that marry before puberty. Non-Brahmins are generally married after puberty, and so are Muhammadans here.

Among the orthodox there is no consideration of age when once she reaches puberty.

7. Yes, to religious injunction. Extracts enclosed.

8. Garbhadan among Brahmins is performed within six months of reaching puberty. Among non-Brahmins where the bride has reached puberty and is 15 or older, Garbhadan is performed on the 2nd or 3rd day of the marriage ceremony.

9. Puberty is not a sufficient indication of physical maturity. I consider 18 to 21 the proper age.

10. Seventeen or 18 years of age.

11. (i) Extensive laceration of vagina with profuse bleeding age 11.

(ii) Primipara age 12, generally contracted pelvis, difficult labour and still born child.

12. Yes.

Also is a common age cause of abortions and miscarriages, also prelabours.

13. Yes, but confined to the educated classes including Brahmins and Non-Brahmins.

14. No.

15. Yes, without the aid of X-Rays. X-Rays should be provided in all headquarters hospitals or cases should be sent to the nearest Radiologist.

16. The margin of error would be minimised as the epiphyses for the Pisiform appears at 12, and for the lesser trochanter of the head of the femur at 13, while for the crest of the ilium, ischial tuberosity, anterior inferior iliac spine and tubercle of the pubes at 15.

17. Extra-marital and marital offences should be separated into different offences.

18. There should be a difference in the procedure of trials for offences within and without marital state, for the former I would suggest a Panchayat consisting of men and women.

20. Fixing a higher age of consent for marital cases is preferable and would be more in consonance of public opinion than fixing the minimum age of marriage.

21. Progress of social reform by means of education and social propaganda are very necessary together with the strengthening of the penal law, but either of the two by themselves cannot be relied on.

Statement showing the cases of Crimes of Seduction and Rape disposed of in the Presidency Magistrate Court, Madras, during the years 1918 to 1927.

Year.	Nomenclature of the offence.	Name of Cases.			Number of Persons.			REMARKS.
		Reported.	Dismissed under Section 203 and 204, C. P. C.	Brought for trial.	Brought for trial.	Discharged.	Committed.	
1918	Rape Section 376, I. P. C.	2	2	...	...	...	...
1919	Ditto	1	1	...	...	...	...
1920	Ditto	3	...	3	3	2	1*	*Withdrawn.
1921	Ditto	1	...	1	1	1	...	
1922	Ditto	...	Nil	...	...	Nil	...	
1923	Ditto	3	2	1	1	1	...	
1924	Ditto	...	Nil	...	...	Nil	...	
1925	Ditto	3	3	...	...	...	...
1926	Ditto	2	1	1	1	...	1*	Transportation for 10 years.
1927	Ditto	1	...	1	1	1	...	
	Total	16	9	7	7	5	2	

Bodhayana Smruti—4th question. Chapter I.

A girl who is not matured should be given in marriage to a bachelor of good conduct and character. But if there is any suspicion of the girl attaining puberty soon she should at once be married to one who is not of a good character.

Gautama Smruti—80th Chapter.

A girl should be given in marriage before she attains maturity. He is a sinner who does not give his daughter in marriage before she matures.

Manusmruti—8th Chapter.

The mantras for the marriage are to be used only in the case of the marriage of unmatured girls. They are not to be used in the case of the matured because that marriage is not Sastric.

Ninth Chapter.

The girl should wait three years after maturity (within which time if the father does not give her in marriage) she should find for herself a suitable husband.

One who marries a matured girl is not to give dowry to the girl's father; for the Lordship of the father over the girls is over by his failure in his duty, viz., finding a suitable husband for the girl before maturity.

A man of thirty is to marry a girl of twelve (not matured) or, a man of twenty-four may marry a girl of eight if he is eager to do those Dharmas which only a married man could do.

Yagnavalka Smṛuti—7th Chapter.

The mother, father and the elder brother, all three attain hell if they do not see that the marriage of a girl is performed before she attains puberty.

He who takes that girl in marriage is not to be spoken to, nor is he to be entertained as a guest or an equal, he being considered the husband of a low caste woman (because the girl becomes practically low caste by not being given in marriage at the proper time before maturity).

Therefore the marriage of a girl before she attains maturity is admitted, but that of a girl of eight is most welcome.

She who lives in her father's abode and attains her puberty before being married it to be banished and is not even to be seen ever afterwards.

She, having become impure in this world and for the world to come has not a right for marriage. And he who marries her has not got the purity in him for the worship of Gods and of his fore-fathers.

Dharma Sindhu.

He who gives the girl in marriage has to perform at least one godana (godana—the offering of a milch cow free to a Brahmin) and feed as many Brahmins as he can and thus purify himself. The girl should take no food or water for three days after which she should drink cow's milk and give away some of her ornaments to a Brahmin Girl. And the bridegroom should perform Kushmandahoma. Thus the three liberate themselves from the great sin that would otherwise arise.

Oral Evidence of Dr. (Mrs.) LAZARUS, Superintendent, The Government Victoria Caste and Gosha Hospital, Madras.

(Madras, 23rd November 1928.)

Dr. Beadon: You say that fixing the age of consent for marital cases is preferable and would be more in consonance with public opinion than fixing the minimum age of marriage. What age would you fix?

A. Sixteen.

Q. The present age of consummation is 13, and we are told that very few cases come to light, though cases do actually occur. If then the age of consummation is fixed at 16, and there is no age fixed for marriage how would cases come to light?

A. In that case I would have the age of marriage at 16, and the age of consent at 18.

Q. Do you think that public opinion would be ready for the age of marriage being fixed at 16?

A. It is not ready but it is growing towards it.

Q. Do you think it would be advisable to have the age at less than 16 as a first step, and then increase it?

A. No; I would have 16 to begin with.

Q. What is your object in fixing 18 as the age of consummation. Do you think that a girl at 16 would not be fit for motherhood?

A. It would not be safe either for her or her progeny.

Q. At the same time you say that a girl would be fit to realise the consequences of her act at the age of 17 or 18. This relates to extra-marital cases and there is a great difference between cases of this kind, and ordinary marital cases because in extra-marital cases moral consent is involved.

A. I do not think that a girl would realise the moral consequences until she is 21.

Q. Then would you like that the age of consent outside marital cases to be fixed at 18 or 21?

A. It should be not less than 21.

Q. We are told that the Indian girl is precocious and if we raise the age of consent to more than 16 there will be cases in which the girl would seduce the man. Do you think so?

A. I do not think a girl would have the courage to do so.

Q. In the villages the girls are of a very forward nature. And we are told that if we raise the age to more than 16 we might have a great deal of trouble with girls. Do you think that is correct?

A. I do not think that a girl would be entirely to blame.

Q. We have been told that if the age is fixed as high as more than 16, the Indian girl being a precocious creature, there would be trouble. Do you therefore think that it would be safe to have the age of consent at more than 16?

A. Perhaps not. Personally from a medical point of view I would like to have it as high as possible. But from a social point of view perhaps it would be better to have it at 16.

Q. In paragraph 11 you have given us two cases, one of extensive laceration of vagina with profuse bleeding, age 11; Primapara, age 12, generally contracted pelvis, difficult labour and still born child. Would you mind telling us if these cases occurred recently?

A. The first case happened 5 years ago. I do not remember when the second case happened.

Q. Was it a marital case?

A. Yes.

Q. Did the case go to court?

A. I do not know.

Q. Such cases do happen, but they do not come to light. There is no organisation sufficiently interested in the girl to bring such cases to light. Can you give us any suggestions? We are told that such cases will never be brought to light, because it will ruin the girl if the husband is put in jail.

A. Personally I feel that it is due to the ignorance of the law.

Q. Do you think the law is absolutely unknown?

A. It is practically unknown. I think the law would help the parents. There are some parents who would like to keep their daughters from sending to their husbands, but they cannot now do it because social conditions are very strong.

Q. If they refuse to send the girl, the husband might get married a second time.

A. I have been asked by parents of girls to certify that girls are immature and not ripe for consummation so that they might get the consummation postponed till the proper time. The mother-in-law of the girl listens to it and allows the consummation to be postponed a little longer.

Q. Do you think that it is useless to have the age of consummation only without the age of marriage also?

A. Yes.

Dr. Beadon : In answer to question No. 4, you say the amendment of 1935 has stimulated public opinion among the educated classes by postponing the consummation of marriage. Do you think it has really stimulated public opinion by postponing the consummation of marriage?

A. Yes. In a very small proportion of the educated classes.

Q. Would you modify your answer by saying among a small proportion of the educated classes?

A. Yes.

Q. Among the others it has not stimulated public opinion. Is it because of the law not being known, or because of their not caring for it?

A. On account of the law not being known.

Q. Do you think that it would be better to make the law known by the beat of the drum?

A. I should think so and also the evils of early consummation together with that.

Q. But so many people come and tell us that there are no evils at all. They give the example of their own wives in whose case consummation took place very early and they say that there was no trouble. There may have been just a stray cases, that is what they say.

A. Perhaps the immediate effects are not felt. It is the remoter evils that have to be taken account of. I think large infantile and maternal mortality is surely due to early consummation. In 1926 out of over 5,000 births of alive children in Madras City 363 died within first ten days. They were not born with much stamina in them.

Q. Were they all first born children?

A. I am talking of all births and not of first births.

Q. But they may refute the argument by saying that their mothers had no milk, they were poorly nourished and that is why the children died.

A. If the mother were strong the children would be better able to battle against any disease and they will not be lost. In 1926, 336 children died within 3 months of their birth and 286 within 3 to 6 months and 470 within 6 to 12 months.

Q. Where do you get these figures from?

A. There is a child welfare centre under the corporation.

Q. What was the infant mortality in that year?

A. 279.3 and in 1918 it was 335.2 per thousand.

Q. What about the infants of these premature mothers?

A. They are rather small in weight.

Q. How do they grow up?

A. I think physically they are rather poor.

Q. Do they not seem to build up later on as the other children do?

A. On the average they are much weaker than the other children.

Q. They remain weak throughout life?

A. Yes. I would also say that the number of abnormal cases increases with the lower age of the mother.

Q. Have you figures to prove that or is that just an impression?

A. I have taken a number of caesarian section cases in primiparae about the age of 16.

Q. Do you meet any cases of osteomalacia also?

A. In the South we have not got osteomalacia. It is generally contracted pelvis due to general contraction and want of development of the mother.

Q. How many cases do you meet in a year?

A. Three or four.

Q. Out of a total number of?

A. Two thousand births. From 1923 to 1927 we had 3 cases of contraction of the pelvis where the girl was 16 years and we had three cases where the girl was 18 years old. In five years we had 6 cases.

Q. With regard to remoter results. Do you think there is sterility as a result of one or two difficult labours?

A. Yes, there is, due to previous difficult labours.

Q. Have you come across cases in which there is a great deal of cicatricial contraction and fistula cases?

A. We have had fistula cases.

Q. Do you think fistula cases are common?

A. We had a case 18 years ago. The girl lost the child and the labour was difficult. She had no child after that. There is very often destruction of soft tissues.

Q. Do you meet many cases of destruction of soft tissues?

A. When there is a labour at an early age, we meet these cases.

Q. But people say that happened 18 years ago. They want to know something recent.

A. I have had a case recently also. The girl is now 15. She was delivered outside and came in for fistula. She was delivered about a year ago.

Q. Did she lose the child?

A. She did.

Chairman: You say early consummation is the preponderating or the chief cause of infant mortality. That it is one of the cause everybody admits. Why do you call it a preponderating cause? What are your tests for judging that it is a preponderating cause?

A. Bones of the pelvis are not properly developed, labour is generally difficult and so the mother dies as a result of difficult labour either before she delivers or after delivery. The same is the case with regard to infantile mortality. A very large number of children die within the first ten days.

Q. We are told that even at 14 if the girl is fully developed there is nothing wrong in her becoming a mother. The mother and the child remain safe and sound.

A. In such cases there are more abortions and miscarriages than when there are full term births.

Q. The difficulty is whether the age is the preponderating factor or the development of the girl is the preponderating factor.

A. Among 9,670 labour cases that have been admitted into the hospital there were 1,865 Hindu first mothers and 345 Mohammedan first mothers and the average age of these was 24.2 among Hindus and 21.24 among the Muhammadans. In these cases there were no abortions or miscarriages. If at 15 there was no fear of any evil consequences the average age ought to be less than that high figure. In cases where there is consummation at an early age there are more abortions.

Mr. Bhurgava: How do you conclude that there are more abortions among people where early marriage takes place for instance the Brahmmins?

A. I have come across many cases.

Q. Have you been called upon to attend many such cases?

A. Yes.

Q. You have seen Brahmin as well as non-Brahmin girls. Can you say, as a rule, Brahmin girls are weaker than the non-Brahmin girls?

A. But for this purpose you should compare persons of the same status of society, I think however the Brahmin girls are weaker.

Q. Could this be said of men also?

A. Brahmin men are also weaker.

Q. At what age do the girls attain puberty among classes in whom early marriage is the rule?

A. About 12.

Q. And in other castes where early marriage is not the rule?

A. The girls of those classes attain puberty at about 13.

Q. Has the prevalence of early marriage to do anything with early attainment of puberty?

A. I think, it has.

Q. In your opinion how much time should elapse between attainment of puberty and consummation, so that the girl and the progeny may be alright?

A. I should say 6 years or more.

Q. May I know your reason why do you advocate 15 for marriage and 18 for consummation? Would you not be satisfied if 18 is fixed for both?

A. I think it would be easier to work the law. Sometimes a grand-father is eager to see the children married during his life time and then the marriage is performed early.

Q. This is as a compromise, just to please the orthodox people?

A. Yes. I thought it was better for the nation if the men exercised a certain amount of control and learned what is good both for themselves and their progeny.

Q. Is consummation at 16 attended with injury necessarily?

A. I think it would be much better for the girl to conceive after 18.

Q. That is an ideal age but we have to see whether it would be workable at present. You know at present consummation takes place soon after puberty and you are advocating that up till 18 no marriage should be consummated. Do you think it would be workable?

A. I think we ought to aim at it.

Q. This is your ideal age, so that to start with you will be satisfied if it is fixed at 16.

A. I think in the interests of both the husband and the wife it would be better for them to wait till 18.

Q. Would you leave it more to discretion and persuasion rather than to law. By law would you like 16 to be fixed?

A. I say, law alone won't do. Law *plus* education of the public is what is required.

Q. May I understand you would like that so far as the law is concerned 16 may be fixed as the least age of consummation and the Government and the people should take to education and propaganda on this point so as to raise it to 18 or 20?

A. Yes.

**Oral Evidence of Dr. C. S. GOVINDA PILLAI, M.B., Ch.B., L.R.
C.P. & S., D.P.H. (Edin.), Health Officer, Corporation of Madras.**

(Madras, 24th November, 1928.)

Chairman: How long have you been the Health Officer?

A. For the last 2½ years in Madras.

Q. Have you any practice outside the municipality? Are you allowed to practice?

A. We are not allowed to practice.

Q. I suppose you are qualified to practice?

A. Yes, but we are not allowed any private practice.

Q. Have you got any Maternity Home in which you work as Health Officer?

A. We have got welfare centres. We have 9 child welfare centres, under me but we have not got any maternity homes, places where we take women for confinement.

Q. Is there any information that you can give us from the child welfare centres?

A. I can give some information. For the purposes of the Committee I examined 4,297 cases in all with a view to find out the proportion of child births in different ages. There was one birth at 12 years, 2 at 14, 6 at 15, 64 at 16, 21 at 17 and 473 at 18.

Q. What was the period?

A. It was a portion of the year—1926.

Q. The age of the mothers I presume you got from questioning them?

A. Yes.

Q. Why did these children come to the welfare centres? Did they come to be treated?

A. We register pregnancies in the case of poor people and send nurses during confinement. We have about 10,000 births in a year. Last year we have had 10,000.

Q. These figures are taken from the registers kept by the doctors in the centres?

A. Yes.

Q. From these figures are you prepared to state that till after 17 the birth rate is very small?

A. That is what I should think.

Q. From the registers of 1926 you took about 4 thousand cases at random for a certain number of months successively?

A. Yes.

Q. Out of 4,297 cases taken at random about 94 births took place before 17.

A. Yes.

Q. That is about 2.4 per hundred births took place before 17 and the rest took place at 18 and over?

A. Yes.

Q. Which class do they belong to?

A. They are Hindus, Mohammedans, Christians and Anglo-Indians.

Q. Poor classes or middle classes?

A. Not very many belong to the middle class. Ordinarily we don't take cases where the salary of the man is above Rs. 100. People earning below Rs. 100 are given free treatment.

Q. Are these cases followed up for a year?

A. Yes, they are.

Q. Can you give us any mortality figures?

A. Our infant mortality comes to about 300 per thousand in the city of Madras.

Q. Do you find that in any particular community such as Hindus or Brahmans there is more mortality than the general average?

A. There is nothing very remarkable. Amongst the Muslims it is greater because their general mortality is greater.

Q. Why is the Mohammedan mortality greater?

A. I think their standard of living is poorer than the other people.

Q. You don't think there is any particular community in which mortality is emphasized more than the general average?

A. No.

Q. In your general birth register is any age of the mother recorded?

A. No.

Q. Do you find as a matter of fact that between 10 and 15 and 15 and 20 deaths of females exceed those of the males in any conspicuous degree?

A. There is not very great difference. Between 10 and 15 about 460 males and about 620 females died in the year 1918, between 15 and 20 about 500 males and 756 females died and between 20 and 30, 1,300 males and 1,000 females died. But for comparison you must know the population of males and females.

Q. Can you give us the male and female population of Madras?

A. Males are about 276,000 and females are about 250,000. We have got totals but for comparing mortality we should have the population at different ages. During the child bearing period the mortality will be higher.

Q. Can we draw any inference from that fact?

A. The reason of more women dying is early child-birth and frequency of child-birth.

Q. Do the children come for being treated in the welfare centres?

A. They do.

Q. Have you any chance of looking at them?

A. Yes.

Q. What is your impression about babies of girl mothers below 15? Do they come?

A. They do. We give them free milk. We weigh the baby and fix the quantity of milk accordingly. They are very miserable. They are very poorly developed and the mothers have very little health and they lose what little they had.

Q. Do these mothers come because there is free supply of milk or because there is little supply of milk on their person and cannot feed the baby?

A. We do not give to all. It is only in cases where the mother is unable to nurse the children that we give milk.

Q. What is the number of babies that you give milk to every day?

A. I should think about 300 babies.

Q. What do you think is the percentage of babies of girl mothers below 16 in that?

A. It should be very small.

Mrs. Nehru: How long have you been keeping these registers?

A. I think we have got them for the last 7 years. The welfare centre started a little earlier and it was gradually developed.

Dr. Beadon: You don't get any special disease. We find osteomalacia is very common. You don't get that here?

A. We have malaria very common here.

Q. In other parts we find pernicious anæmia is very common, do you find that here also?

A. Not very common. We have got a few cases, but not to any extent.

Mr. Kanhaiya Lal: Why is mortality amongst the infants so high?

A. It is due to various causes. I think overcrowding specially in the backward areas and in slums secondly poverty and thirdly a large number of premature births and other things.

Q. Is general debility often due to early child-birth?

A. Of course that also contributes.

Q. Can you tell us why the infant mortality amongst the Brahmins is the lowest, leaving aside the Anglo-Indians and Europeans?

A. It is due to the economic condition of the Brahmins, and they are very clean. The general mortality is also lower amongst the Brahmins.

(Witness promises to send birth rate of different communities.)

Oral Evidence of Mr. S. V. RAMASWAMY MUDALIAR, Kilpauk.*(Madras, 24th November, 1928.)*

Chairman: Are you connected with any social reform movement here?

A. Nothing in particular.

Q. Have you got a fair knowledge of the Brahmin population also?

A. I know something.

Q. Am I to take it that your knowledge would be chiefly confined to Mudaliars and Naidus.

A. My knowledge is confined to non-Brahmins in general.

Q. There was apparently a hospital of your father. Are you concerned with it?

A. In a way I have visited the hospital. It is managed by the corporation.

Q. Were you a member of the corporation?

A. Yes.

Q. Did you visit the hospital in that connection?

A. In my individual capacity I visited the hospital.

Q. In your answer to Question 20 you haven't said which of the two remedies you prefer.

A. I would rather have both.

Q. What would you have for the age of marriage?

A. 16.

Q. For boys what age would you put?

A. 20.

Q. Would you have the same age for Age of Consent?

A. Yes.

Q. What age would you fix in extra-marital cases?

A. 18.

Q. In your para. 5 you have given different ages for puberty of different classes of girls. Don't you include the Vaishya class in the rich and middle class?

A. Not as a rule. There are rich and poor men in them.

Q. Can you then say why their girls seem to attain puberty earlier?

A. It is my personal opinion that the Vaishyas take very little exercise nor do they go outside and there is too much of intermarriage and there is very little of foreign blood and they are generally weak. They say that on account of their extreme weakness, they attain their age earlier.

Q. Do you know of any cases of the breach of the present law of the Age of Consent?

A. I have only heard of them but I cannot authenticate them.

Q. Is it likely that amongst the Vaishyas consummation may take place before a girl is 18? Would it be correct to say that within three to six months after puberty without reference to age, consummation takes place amongst them?

A. Yes.

Q. Do you know that the idea of pre-puberty marriages is prevalent amongst certain classes of people?

A. Yes.

Q. Are the Komettis included in those classes where pre-puberty marriage is followed?

A. Formerly they were having pre-puberty marriages but not now. They don't follow it.

Q. Are practically only the Brahmins considering pre-puberty marriage essential?

A. Yes.

Q. Don't you think that your suggestion of 16 as the marriageable age would upset the whole Brahmin community?

A. I say that the national interest requires an increase in age and in such social causes somebody must be upset.

Q. Have you thought of a remedy by which pre-puberty marriages can be done at lower ages and at the same time effectually prevent consummation up till 16?

A. In that there is a grave danger. I don't think it may sound practical. Therefore I think the law of marriage is the only solution.

Dr. Beadon: Do you think that the evil of early marriage is very great?

A. I don't think that as far as South India is concerned it is on the ascendancy. It is there. It is better to have some regulation.

Q. We were told that amongst the non-Brahmins consummation takes place at about 15 or 16. Do you support this statement?

A. Consummation is more common shortly after puberty. In the towns it is not so. It is generally done very late.

Q. What proportion would you put in towns where consummation takes place within 3 or 4 or 6 months after puberty?

A. 50 per cent.

Q. Is it a fact that the non-Brahmin girls are kept in purdah until they are married?

A. It is not correct.

Q. Are they allowed as much freedom as the Brahmin girls have?

A. Yes. Till the age of puberty they are allowed to have as much freedom as the Brahmin girls. But after puberty they are not allowed to mix freely with strangers. They are not kept away from their relations.

Q. In your answer to Question 11 you say you have come across a case where a girl under 13 had conceived and the doctor had to perform a Caesarian operation. Did this happen recently?

A. That was about four or five years ago.

Q. Do you know of any cases of the first child-birth where there have been troubles, etc.?

A. I can give you of one case. The age of the girl when she was consummated was 13. Confinement took place at 14. There was some trouble about the confinement and they tried to get the barber midwife to deliver her but she was not successful and they sent for a doctor who delivered her; but the child wouldn't live long.

Q. In that case was the mother of a good physique before marriage?

A. It was *via media*, and she was short in stature.

Q. Do you know of any other case, of late in the town?

A. No.

Q. What about the babies of these child mothers? Are they in any way different from the older mothers?

A. Certainly they are. The babies of the child mothers are very puny.

Mrs. Nehru: You refer to the Vaishyas intermarrying. What do you mean by that?

A. They marry amongst their own very close relations, i.e., maternal uncles, sister's daughters and so on.

Q. You mean that they prefer to marry amongst their relations to outsiders.

A. Yes.

Q. Do people know anything about the Age of Consent law?

A. Some of the people who now read papers, they know about it.

Q. Do they know that such a law exists?

A. I don't think even the towns people know much about it. Even in towns very few people know about this.

Mr. Shah Nawaz : Do you mean to say that in Southern India consummation formerly took place later than at present?

A. The marriage itself took place later because men were not married before 20 or 25.

Q. In para. 12 you say that there is a preponderance of deaths in the case of young women. May I know what it is due to?

A. It is due to want of proper medical aid. The girl is more delicate and especially during her confinement period cleanliness is not observed and proper protection is not given and timely steps are not taken and so on.

Mr. Mudaliar : Is there any difference in the age of puberty between village girls and town girls?

A. There is. The village girls attain their age later than the town girls.

Q. Shall I put it down between 14 and 15?

A. I should say 13 and 14.

Q. You have said that puberty occurs amongst the labouring classes between 14 and 15. Are you referring to the labouring classes in towns or the agricultural labouring classes?

A. I am referring to the agricultural classes also.

Q. In these classes you mean to say that consummation takes place soon after puberty, i.e., after 15.

A. Yes.

Q. So amongst the non-Brahmins the consummation takes place generally somewhere above 15?

A. Yes.

Mr. Mitra : You do not suggest that these trials should be held in camera or these cases should be made compoundable.

A. The trial proceedings may be held in camera but the judgment may be published.

Q. Do you think there should be a special Bench to try the cases where ladies might be associated as judges or jurors?

A. I would like to have ladies as jurors but not as judges.

Q. As regards marriage legislation are you for giving some exemptions to particular classes in specially hard cases?

A. No, it will be very difficult.

Mr. Bhargava : In the rural areas among Brahmans what is the usual marriageable age?

A. Before 12.

Q. And among non-Brahmans?

A. Not before 14 or 15.

Q. If your suggestion is accepted and 16 is fixed as marriageable age for all classes do you think they will welcome the change?

A. I do not think they will object to it. Some people will be under the influence of orthodox people but in the generality of cases they would not object.

Q. If the Age of Consent law is enacted is it, in your opinion, bound, to be inefficient?

A. Certainly.

Q. At the time of consummation ceremony are gifts given by the parents of the bride to the bride and the bridegroom?

A. Yes.

Q. May I understand that greater part of the dowry is given at that time or it is given at the time of marriage?

A. A greater part is given at the marriage time.

Q. So generally speaking there is difference of about 3 to 10 months between marriage and consummation ceremony?

A. Yes.

Q. If this 16 is accepted as marriageable age then consummation ceremony is bound to lose its importance?

A. Then it will be quite unnecessary.

Q. Is it sanctioned by Sastras?

A. I know nothing about Sastras but in practice it will disappear.

Q. In reply to Question No. 11 you say that a certificate by 2 registered medical practitioners will be sufficient. May I know whether you think that certificate should be obtained before consummation ceremony is gone through?

A. When there is prosecution the defence should produce a certificate of this nature and he should be acquitted on the production of this certificate.

Q. You say that it may be taken as conclusive proof so that he may not have to produce other evidence. If this is your idea it will follow that in every case where there is prosecution the defence will become armed with this certificate whereas if a girl attains 18, 19 or 20 years it will be unnecessary?

A. I think it will be in the interests of the country if everybody is asked to produce a certificate.

Q. Probably you have not considered it from the point of view of cost to the ordinary villager.

A. It should be given free.

Q. You want this should be incorporated in the law of the Age of Consent?

A. Yes.

Q. Suppose you make it optional for any person to arm himself or not with this certificate, do you think there will be any risk?

A. I do not mind if you make it optional.

Q. If this law is enacted do you think there will be many cases of the violation of the Age of Consent law?

A. There will be very few cases.

Q. So that if cases will be very few it will be open to the accused in particular cases to defend himself and say that the age of the girl is above the prescribed age. Then why is it necessary that the law should contain a provision regarding this?

A. Nobody can say that the girl is over 16.

Q. But the birth register is there and the doctors are there and there will be sufficient evidence before the court. Therefore you do not consider it is necessary to incorporate this in the law.

A. No. I do not consider it necessary.

Mr. Kadri: Do you know that the Madras Legislative Council have passed a resolution in favour of Government raising the marriageable ages of boys and girls to at least 25 and 16 respectively?

A. I do not know.

Q. In view of the fact that child marriages among the non-Brahmans are almost non-existent and the percentage of child marriages among others is not very high, don't you think there will be no serious discontent if the law is passed?

A. There will be no resentment.

Q. With regard to early consummation we have been told by a number of pandits that there is a Shastric injunction that a husband should approach his wife within 16 days of her first menstruation and this practice has pre-

valled among the Hindus from times immemorial. Then why do you bring in the Mohammedans?

A. During the time of my great-grand-father this practice did not prevail.

Q. Have you any experience of the way in which the birth registers are maintained by the Madras municipality?

A. Many cases are not registered at all.

Q. And who is responsible for that omission—the parents or the corporation?

A. I think corporation is responsible.

Q. Do the people know that a failure on their part to notify a birth in the family is an offence for which they are liable to punishment?

A. Yes.

Q. There is another suggestion that has been made that at the time a boy or girl is put to school the school authorities should insist upon the production of birth certificate and the date of birth in the school register may be entered from that certificate.

A. This is a good suggestion. I think the best way to make it more efficient is instead of asking the parents to go and register births, the sanitary inspector may be instructed to go round and collect information.

Q. What is the practice in the rural areas?

A. They have to go to the village Chaukidar and register the birth.

Q. Is it generally more efficient than in the municipal areas?

A. No.

Q. Is it binding on the parents to report the births in the rural areas?

A. Yes.

Q. Is any penalty attached to its breach?

A. Yes, it is some fine.

Q. When is the name given to the children?

A. Sometimes name is given after 3 months.

Q. Do you think it should be made obligatory on the parents to make a subsequent report within a week or so of *namkaran sanskar*?

A. Yes, they should be required to make a report within 15 days.

Q. Are you in favour of special matrimonial courts for the trial of offences within marital relations?

A. No; that means a burden on the taxpayers.

Q. Would you agree if the Judges are honorary?

A. Yes, that is welcome.

Q. As regards medical certificates you seem to think that they should be given free?

A. Yes.

Q. And you say that one of the doctors should be a lady doctor?

A. Yes.

Q. Are lady doctors available everywhere?

A. Most of the towns have got lady doctors.

Q. Will this suggestion not prove impossible in rural areas?

A. In such cases exception may be made.

Q. Before the magistrate also some affidavit will have to be made. On the whole it will be very difficult and expensive. Would you insist on the production of certificates?

A. There is a lady doctor in each District and she should give these certificates free of cost.

Pandit Kanhaiya Lal : You are of opinion that the age for marriage may be fixed at 16.

A. Yes.

Q. Supposing the legislature fixes the age at 14; would you fix the age of consummation at 14 or 16?

A. If it is not possible then the only remedy is that the Age of Consent should be 16.

Q. Can you suggest any measures for bringing cases of breaches to light?

A. Unless the municipal authorities want to do it and the village officials are honest and straightforward, cases cannot be brought to light.

Q. I understand that you have got village panchayats and you have also got an Inspector General of Panchayats. Suppose we give these panchayats some sort of power to watch and look after these cases and report them to the proper authorities, will it work?

A. I do not think because all panchayat people are unofficial men and they will hush up cases.

Q. Would it be possible to form and constitute vigilance societies in towns and villages consisting of representatives of all classes?

A. It is not necessary. We should ask the police to be more alert because they are in touch with every case.

Q. Would you make these cases cognisable or non-cognisable?

A. Non-cognisable.

Q. At present the rule is that under 12 they are cognisable and above 12 such cases are non-cognisable; would you retain that?

A. Yes.

Q. Just now you told me that police could find out these cases more easily; if you make them non-cognisable the police cannot interfere.

A. But the authorities can ask them to enquire.

Q. But who will make a complaint?

A. Some friend or relative can make a complaint.

Q. Don't you think you are restricting the chances of detection by confining the right of complaint to relations and friends. Would you give that power to the general public?

A. I do not know.

Q. What about social reform movements and women's reform organisation?

A. They can have this power.

Q. Would you be satisfied if we require all such cases to be investigated by gazetted officers of the police?

A. I should put it at Inspector of Police or Deputy Superintendent of Police.

Q. Then would you make a case of above 12 cognisable?

A. Yes.

Q. Would you recommend that in order to restore good relations between the husband and wife, marital cases might be made compoundable?

A. If it is compoundable every case will be compounded and then what is the use of enacting a law?

Q. Supposing it is compounded with the sanction of the court?

A. Then it is all right.

Q. Would you like registration of marriages or reports of all marriages being made to the prescribed authority giving the names of the marrying parties and their ages?

A. Yes, that is already prevalent in French India. The same might be done in British India.

Q. Who should be required to make report—the priest or the guardians of the marrying parties?

A. Guardians.

Q. Who should maintain these marriage registers?

A. In French India the municipality does it; they have got in rural areas Mayors who keep these registers.

Q. But you have got no Mayors outside towns?

A. In that case there is a Union or municipality who can do it, or the village magistrate may do it.

Q. Would you recommend that in the case of marriages a certificate of marriage should be issued by the registering authority?

A. Yes, it should be a free certificate.

Q. Would you further recommend that in the case of birth a birth certificate should similarly be issued as soon as a report is made?

A. That is being done even now.

Q. You say that among the non-Brahmans marriages are celebrated at a later age. I find however that the death rate of infants under one year among the Vellala Mudaliars is 213.5. You say that among the Brahmans there is early marriage but the rate of infant mortality is only 157.4 among them. The rate of infant mortality among the Brahmans is much lower than among the Vellalas.

A. Vellalas is a bigger community and many of them are very poor. It may be due to want of proper food and nourishment.

Q. So far as figures are concerned these are per thousand of births so that there is no question of bigger or smaller community. Again in Patnavals it is 303.0. Are they also a poor community?

A. Yes, they are very poor.

Q. And they cannot afford to get themselves properly treated.

A. Yes.

Q. What is the marriageable age among Patnavals? May I take it that early marriage is the rule among them?

A. Yes, because they are imitating the Brahmans.

Q. Among the Naickers the infant mortality is very high, it is 250.0. Are they field labourers?

A. They are the poorest classes.

Q. Then amongst Chetties it is 177 per cent. Then Vanniah or Naickers who have late marriages have a death rate of 250 per cent, or about 60 per cent. more than the Brahmans. Among the Mussalmans the infant mortality rate is 257.8 per cent, but there is no early marriage amongst them except among the Moplahs.

A. I have no idea.

Q. Even amongst Indian Christians it is 214.5 per cent. being higher than the Brahmans. Can you suggest any reason for it?

A. They are also very poor. Christians are converts from the depressed classes.

Written Statement, dated the 10th August 1928, of Mr. R. AIYAKUTTI IYENGAR, B.A., B.L., Advocate, Municipal Councillor and Honorary Secretary, Kurnool District Co-operative Bank, Ltd., Kurnool.

1. Yes. Age of Consent must be raised to 16 in the case of extra-marital cases. Dancing girls in this part of the country adopt or purchase girls when they are 5 or 6 years old and live by making these girls lead a life of prostitution. The girls below 16 years of age cannot have an idea of the

consequences of their leading a life of prostitution. If the Age of Consent is raised to 16, many girls may be saved. It must be raised to 14 in marital cases.

2. For reasons mentioned in my answer to question No. 1, it is necessary that some advance should be made in the present law.

4. No. Educated parents are postponing the consummation of marriage of their girls up to 14 years in the interest of the health of the girls. So far as the orthodox people are concerned, it had no effect. Such cases will not come before courts as people are generally reluctant to initiate proceedings in marital cases. Raising the Age of Consent in marital cases will not have much effect unless the marriage of girls within 14 years is prohibited by legislature. Among Hindus, when a girl is married the husband is invited to the girl's house on festive occasions. If both husband and wife meet and if the girl had attained maturity it will be very difficult for parents of the girl to prevent co-habitation between the husband and the wife. Such cases will not come to light except when the girl becomes pregnant. If the Age of Consent is raised in marital cases and if the penal provision is strictly enforced it will lead to cases of abortion as it now happens in the case of virgin widows which will do more harm. The best solution is to pass legislation prohibiting the marriage of girls below 14 years of age. Personally I am for raising the age to 16 but the orthodox community will not be prepared for such a legislation. It must be done gradually.

5. Girls attain age between 12 and 13 years age among the higher classes, i.e., Brahmins and Vaishyas, among the agricultural classes they attain age between 14 and 15 years of age.

6. Cohabitation is common in this part of the country soon after puberty, another girl completes 13 years or not, except among the educated classes. Cohabitation before puberty is rare here.

7. There is a belief in this part of the country based on astrology that if consummation takes place within 16 days after puberty, they need not calculate if a day is auspicious or not for Garbadanam. So orthodox people arrange for it within 16 days. There is no other authority for it and no penalty is prescribed. In the Tamil Districts of the Madras Presidency this custom is not prevalent. It is prevalent only in the Telugu Districts.

8. Garbadanam ceremony is usually performed among Brahmins and Vaishyas only. It is performed on the day of consummation. This ceremony is performed and then consummation takes place.* It is generally performed after attainment of puberty, in some cases within 16 days and in some cases within a few months after puberty.

9. No. At least 2 years should elapse after puberty before consummation takes place.

10. 16 years.

11. There are many cases among Brahmin girls who have become mothers at the age of 13. It has necessarily affected their health and their children also are very weak. There are many cases of enlargement of liver among the children of Brahmin girls which is attributed to early consummation before the girl is fully developed physically, by the medical profession!

12. Early consummation and early maturity are responsible for high maternal and infantile mortality and for physical deterioration of the race.

13. Yes. It is confined to educated classes.

14. No.

17. The nature and amount of maximum punishment may remain the same in the case of extra-marital offences. In the case of marital offences, the existing provision may continue when the girl involved is within 13 years of age, but in cases where the wife is between 13 and 14 years of age, the offence should be punishable with fine and not with imprisonment as it will not be to the interest of the girl if her husband is sent to gaol. As puberty takes place between 12 years and 13 years and as people in this part of the country do not favour cohabitation before puberty, cohabitation

between husband and wife below 13 years of age can be successfully prevented in many cases. But the real difficulty will arise as in the case of girls between 13 and 14. The peculiar position of the Hindu society is such if one marriage is allowed for girls below 14, it will be difficult to prevent cohabitation between husband and girls below 14 years of age. The best solution would be to penalise marriage of girls below 14 years of age.

18. The trial of offences in the marital state should be always held in camera.

20. Legislature fixing the minimum age of marriage will be more effective than fixing the higher Age of Consent in marital cases. Educated opinion is in favour of the above view.

21. I would prefer to rely in the penal law, than on the progress of social reform. The British Government did not hesitate to abolish the previous custom of Sati by enacting penal provisions. The same Government ought not to hesitate to penalise marriage of girls below 14 years of age and also to raise the Age of Consent in extra-marital cases to 16 years. If we have to rely on the progress of social reform by means of education and propaganda, we will have to wait for many decades to secure the object in view.

Oral Evidence of Mr. R. AIYAKUTTI IYENGAR, B.A., B.L., Advocate and Municipal Councillor, Karnool.

(Madras, 24th November, 1928.)

Chairman: Are you an advocate at Karnool?

A. Yes.

Q. Is that a Telugu District?

A. Yes.

Q. Would you be able to speak for the whole lot of Telugos with regard to the Karnool District only?

A. I will be able to speak of Karnool, Bellary, Kudapah. I belong to Tinnevely District.

Q. Which community you belong to?

A. Vaishnav Brahmin.

Q. How long have you been at the bar?

A. Since 1907.

Q. Are you connected with any social reform movement?

A. No.

Q. Do you think that this opinion that you express may be taken as typical opinion of the local Brahmans or it may be taken as your individual opinion?

A. That may be taken as the opinion of the educated people like me. The matter was placed before the Bar Association, Karnool; they also passed a resolution accepting my view.

Q. What proportion do the educated and advanced classes form of the entire Brahman population? Are there any Telugoo Brahmans?

A. They are more numerous on the Coast District.

Q. Among the classes to which you belong, are pre-puberty marriages considered essential?

A. As a rule it is so but the conditions have so changed on account of economic conditions that the parents of the girls are unable to get husbands and therefore the marriage of girls is being postponed and sometimes marriages are being performed after puberty.

Q. What is generally the marriage age of girls now?

A. 11-12.

Q. Have there been any women's meetings in this part of the country expressing any opinion on the question?

A. Not to my knowledge.

Q. Are you the Secretary of the Karnool District Central Co-operative Bank?

A. Yes; I am also municipal councillor.

Q. In that connection have you come in touch with village life?

A. Yes.

Q. Would you make any difference in the village and the city life with regard to this question?

A. I do not think there is much difference.

Q. When do girls attain puberty among the Brahmans?

A. Generally between 11 and 12.

Q. What are the communities which have pre-puberty marriages?

A. Brahmans, Vaishyas and I understand that other communities follow the example of Brahmans and marry their girls before puberty but in such classes widow remarriage is allowed.

Q. What is the age of consummation generally among these Brahman and Vaishya girls?

A. Except in the case of a few educated people in a large part of the country consummation takes place within 16 days of puberty.

Q. Amongst those people a particular age is not the test but consummation takes place soon after puberty. Is that so?

A. Yes.

Q. Do you know if there are a large number of cases of girl mothers before they are 15 years complete or 16 years complete?

A. Yes, there are.

Q. Do those people who are not Brahmans or Vaishyas marry their girls before puberty or after puberty?

A. Reddis have the largest population and they celebrate marriage after puberty corresponding to the Vellalas of the south. Naidus also have marriages after puberty.

Q. Have you had occasion to compare the girl mothers and the babies of these two classes—those who marry after puberty and those who marry before puberty. Is there much difference between the health of the mothers and children?

A. Those who have post-puberty marriages are far more healthier than Brahman mothers and babies.

Q. You want the age of marriage to be fixed at 14?

A. Yes.

Q. And for boys?

A. Generally boys are not married before 21.

Q. Would you prefer the law of marriage to the law of consent?

A. Yes. Simply fixing the Age of Consent is not effective. It is not known among the people and is practically not enforced.

Q. Would you like to keep the Age of Consent as it is now or would you like to raise it?

A. It may be raised to 14 in marital cases and to 16 in extra-marital cases.

Q. Do you think that amongst Brahmans there are cases of breach of the present law of Age of Consent?

A. They do not seem to be concerned with the consent at all. They attach importance to puberty.

Q. Have you heard of any cases of consummation before 13?

A. They do not consider whether the girl has attained 18 years or not.

Mrs. Beadon : You say in answer to Question No. 11 that there are many cases amongst Brahman girls who are married before 18. Would you mind giving us one or two instances within your personal experience of girls within the last four or five years?

A. There are many cases among Brahman girls who have become mothers at the age of 13.

Q. How many cases have you noticed within the last two or three years?

A. I cannot say whether it is within the last two years but I can say within the last 10 years I have known 2 dozen cases. The children are usually weak.

Q. What about deliveries—are they attended with much trouble?

A. I cannot say about deliveries but the mothers are very weak. 2 cases died of tuberculosis.

Q. Is it that they were already weak or they became weak after delivery?

A. They became weak after delivery.

Mrs. Nehru : You have said that in marital cases the existing provision for punishment may continue while on principle you want the punishment to be lightened? Do you think the punishment at present provided is in consonance with your principle of having lighter punishment in marital cases?

A. I would like the punishment to be only fine in the case of husbands.

Q. But if it is absolutely necessary as you say it is that girls between 12 and 16 be protected, would you prefer taking security bonds from the boy if he is major or from the parents of the boy and the girl to keep the boy and the girl separate as a punishment for first offence?

A. There is no harm.

Q. Would you prefer it to mere fine?

A. That will be a sort of stigma attached to the husband to give security bond.

Q. But a mere fine will not serve the purpose?

A. Whenever a husband is fined I do not think he will in the ordinary circumstances go on committing the same offence.

Q. Would you like the offence to be made cognizable?

A. No.

Q. Whom would you like to give the power of complaint?

A. It should be given to the general public as it is now.

Mr. Mudaliyar : I understand that you advocate a law fixing the age for marriage?

A. Yes.

Q. Would you fix any penalty for violation of that law?

A. The punishment for its breach should be only fine.

Q. What is the maximum punishment that you would fix by law?

A. Rs. 1,000.

Q. And will the alternative be imprisonment?

A. Yes.

Q. Whom would you punish if the boy is under age?

A. Parents of the girl and the parents of the boy.

Q. Would you have the priest who officiates at such marriages to be included?

A. I do not think it is advisable. In many cases the priest may not know the age of the couple.

Q. Similarly the parents of the boy may not know the age of the girl.

A. They will make enquiries about age.

Q. Generally before marriage do they see the horoscope and have it verified by the family priest?

A. It is verified by the family astrologer.

Q. And does that astrologer take part in the celebration of marriage?

A. No.

Q. Generally in most cases the communications between the parties take the form of an exchanged horoscopes. Are these not verified by the family priests?

A. These horoscopes are verified by the astrologer, and not by the priest. They are different persons.

Q. You say that infringement of the law might be punished with fine up to a maximum of Rs. 1,000. Would this not be considered only as an additional expenditure in connection with the marriage?

A. I think even punishment with fine would be heavy in the case of many people.

Q. Do you think that public opinion is advanced to that extent, that if marriages are celebrated below 14 in infringement of the law, it will be considered moral turpitude?

A. I do not think that public opinion is advanced to that extent.

Q. Then do you not think that the fine will not be considered otherwise than as additional expenditure?

A. I think legislation might be tried for some years and if necessary we can enhance the punishment later.

Q. You know that there is a tendency to increase the age. As time goes on there will not be as much necessity for the law as there is now. Would you not therefore rather have a severe punishment to start with and bring it down later if necessary?

A. My fear is that there are some orthodox people who may not understand the law. I think it will be a great hardship if they are to be sent to jail.

Q. Supposing we enact a law and say that the law should not come into effect within two or three years of the passing and that meanwhile we do publicity work, do you think then that the objection of people not knowing the law would be there?

A. But even then in marital cases I do not think it is desirable to have such a severe punishment as imprisonment.

Q. You are for fixing the age of marriage at 14. Would you then advocate the Age of Consent at 16?

A. I have suggested 14 for Age of Consent also.

Q. You say that it should be at least 14. But are you prepared for 16?

A. Personally I am for raising the age to 16. But orthodox opinion will not agree.

Q. Will you have the same age for consummation as for marriage?

A. Yes, if it is not beyond 14.

Q. Supposing it is not possible to have legislation fixing the age of marriage, still would you have 14 for consummation?

A. Yes; I would have 14 only as the age of consummation. I would not put it at more than 14 for the present.

Q. If there is a law fixing the age of marriage at 14, is it not likely that consummation might be put off for a few months after marriage?

A. That is so in cases where marriage takes place before puberty. But amongst the classes where they have post-puberty marriages, consummation takes place along with the marriage.

Q. In those classes where marriage takes place before puberty, and for whom this law is intended chiefly, consummation takes place a few months after marriage. Would you therefore fix the age of consummation at 15?

A. I think from that point of view the age might be fixed at 15.

Q. Supposing we fix the Age of Consent at 15, what is the extent of opposition we shall have to face. What is the feeling in this Presidency and how will it express itself directly or indirectly?

A. I do not think there will be any opposition so far as the Age of Consent is concerned.

Q. Supposing there is opposition, how will it express itself? Do you consider there would be journalistic disaffection only?

A. There will be nothing more than protest meetings.

Q. To make the law effective with reference to the Age of Consent to whom would you give the right of complaint in case of violations of the law.

A. In places where there are any organisation for the protection of girls, for instance women societies and organisations of that kind, in such places power might be given to such societies.

Q. Would you like to give the right of complaint to the public generally, or would you restrict it to particular societies or individuals?

A. It is not desirable to give power to the public generally. I would for instance give power to Municipal Chairmen in municipal areas.

Q. Supposing a provision is made that the previous sanction of a District Magistrate or a first-class Magistrate should be taken before a prosecution is launched, would you then give the power of complaint to the public generally?

A. Even then it is better that the individual reports to some recognised organisation.

Q. Do you think that if power is given to individuals like Municipal Chairmen it will not result in undesirable things?

A. Even in cases where prosecutions are instituted by the Chairman of a municipality I would require that the previous sanction of the District Magistrate should be obtained. I would thus further restrict the power of the individuals.

Q. Supposing as you have suggested the punishment is restricted to fine only, obviously the case would not go to the Sessions Court.

A. No.

Q. Then who would try these cases?

A. A first class magistrate.

Q. Would you associate assessors with the Magistrate in the trial of these cases?

A. I do not think any practical benefit will be derived from it.

Q. Would you constitute communal panchayats to investigate these cases and make complaints?

A. I do not think the communities are so far advanced.

Q. We are talking of the most advanced community in which this sort of practice exists.

A. There are divisions even amongst Brahmins, and I do not think panchayats will work.

Mr. Bhargava : As between marital and extra-marital cases do you consider that extra-marital offences are much more serious?

A. Yes.

Q. In marital cases there is no question of moral turpitude, whereas in the case of strangers there will be social calumny. At present every person has got the right of complaint in such cases. Why do you then restrict the right of an individual to complain so far as marital cases are concerned?

A. There may be factions and a man might have enemies. And to annoy a person these might go on filing complaints.

Q. Would this thing apply to extra-marital cases?

A. Such things happen mostly with regard to men who lead a life of immorality.

Q. Do you realise that the mere making of a report in marital cases will not be sufficient to bring home the charge to the person?

A. Supposing one man is on inimical terms with another he will make a complaint against him. The Magistrate will then go and make an enquiry, and there will be undue publicity. But in case there is a responsible officer to make complaints, he will satisfy himself about the genuineness of the report before he begins to enquire.

Q. So far as the present law is concerned, the provision has not been abused. At present the age is 13, and there has been no abuse of the proceedings.

A. That is because many persons do not know the law. The law is almost a dead letter.

Q. Why do you think that if this law is well known there will be malicious prosecutions?

A. If people come to know that there is a law they will take undue advantage of the provisions because there are factions in every village.

Q. There are safeguards provided under sections 250, C. P. C. and 211 and 182, I. P. C., against such malicious prosecutions.

A. Although these procedures are in the Code, it is very difficult to prove offences under sections 182 and 211, I. P. C. And under section 250, C. P. C., a man will be fined only Rs. 50.

Q. You have made a proposal that people like the Chairman of a municipality might be complainants and secondly that there may be some authority who may sanction prosecutions. Supposing the latter alternative is accepted, and there is an authority to whom complaint can be made, and he is asked to investigate the cases and find out if there is a *prima facie* case for launching a prosecution or not, would you say that the restriction on the right of complaint should not be founded for?

A. My view is that the two conditions must be satisfied.

Q. Do you think that the Chairman should make the enquiry?

A. Supposing the Chairman gets information from some body. He may report the matter to the District Magistrate who will make the enquiry.

Q. It follows then that there should be two enquiries one by the Municipal Chairman and the other by the District Magistrate.

A. The District Magistrate will hold the enquiry. If he is satisfied he can grant sanction for the launching of the prosecution. Otherwise he may direct the Chairman to hold a further enquiry.

Q. When you restrict the right of the Chairman would you be satisfied if he becomes the complainant and sanctions the prosecutions also?

A. Even now in the Municipal councils there are factions, and supposing the Chairman belongs to one party trouble might arise. I have insisted upon the sanction of the District Magistrate in order to obviate this difficulty.

Q. Supposing instead of this Municipal Chairman and the District Magistrate, another officer is appointed who might be called the Director of Public prosecutions and he is authorised to go into the matter, and after preliminary enquiry, if he is satisfied that there is a fit case he may bring a complaint on behalf of the crown, and that such an officer is appointed for each district, would you approve of that?

A. I think that is all right.

Q. Do you want the Age of Consent and the age of marriage to be fixed at 14?

A. Yes.

Q. Do you think that if the age of marriage is fixed at 14 there will be some dissatisfaction amongst the orthodox people?

A. There may be some dissatisfaction.

Q. Do you think that if the age of marriage is fixed at any age after puberty there will be dissatisfaction?

A. Yes.

Q. Why then should we not put it at a safe age if there will be dissatisfaction either at 13 or 14. Why not put it at a safe age like 15 or 16?

A. My point is that many marriages now take place at 14 and the parents say that the girls have not attained puberty. If the law fixes the age at 14, there will be people who will continue to say that their girls have not attained puberty even at 14. But if you fix 16 it will be compelling people and make them admit that they are marrying their girls after puberty.

Q. What is the percentage of marriages where puberty is concealed?

A. There are many cases.

Q. If the Legislative Assembly fixed the age for marriage, then persons who are already willing to have post-puberty marriages but are afraid of the society can say that the law forces them. Secondly social ostracism will disappear as soon as the law is passed. In view of these would you agree to the marriage being fixed at 15?

A. I will not.

Q. As regards punishment, do you agree that imprisonment will create much more dread in a man than fine?

A. Yes.

Q. Do you think that early marriage and early consummation are responsible for infant mortality?

A. The medical profession says so.

Q. In view of the fact that early marriages are responsible for evil results, will you agree to imprisonment for punishment?

A. That will be creating terror into the minds of the public and I would not advocate that. I think that if a man is once fined for having committed the offence he will not do it again.

Q. The experience of the Baroda State is that this system of fines does not work well. The Naib Dewan of Baroda who gave evidence before this Committee said that fines have not acted as deterrent.

A. I think there will be some bigotted and fanatic people who will disobey the law, and I do not think you should send them to jail.

Mr. Shah Nawaz: I understand that pre-puberty marriages are common amongst Brahmans. Is it due to custom or is there any religious injunction?

A. It is being observed as a result of custom. But the orthodox community will say that it is ordained by the Shastras. At the same time there are Pandits who say that it is not necessary. There is a difference of opinion on this point. The Rt. Hon. Srinivasa Sastri says that post-puberty marriages are allowed in the Shastras.

Q. Have you studied the point?

A. No.

Q. Are Brahmin girls ever consulted in the selection of their husbands?

A. In the last few years girls are being educated and these educated girls are consulted in the selection of husbands.

Q. What about those girls who are married before puberty which ordinarily comes at about 12. Are they ever consulted?

A. Even if they are consulted I do not think they can give any intelligent answer.

Q. Do the Shastras enjoin that parents or the legal guardians should select husbands for their girls?

A. At least that is the practice in this presidency.

Q. Do the Brahmin ladies feel that in respect of questions of marriage and consummation they are the victims of social evil?

A. On account of the propaganda that is going on in the country when the thing is explained to the women they feel their position. They would be glad if early marriages are abolished.

Q. Will they welcome legislation fixing the minimum age of marriage?

A. Educated women will welcome it. But there are others who are guided by orthodox pandits who will not welcome it.

Q. What about the Brahmin ladies in the countryside?

A. They are not concerned one way or the other.

Mr. Kudri : In para. 1 you refer to dancing girls using minor girls for purposes of prostitution. Should not reform associations do something to bring these cases to book?

A. Yes; they can do it.

Q. In the case of these minor girls it is an offence to procure a girl for immoral purposes under 18. Is it not so?

A. But these people say that they have adopted the girls and they will get them married afterwards.

Q. You fix the Age of Consent in extra-marital relations at 16. According to civil law a girl is a minor till she is 18 and she cannot enter into contracts of any kind. Also according to the Penal Code a girl cannot be procured for immoral purposes till she is 18. In view of these considerations would you raise the age in respect of extra-marital relations to 18?

A. There may be some girls who are below 18 who may be leading a life of immorality. Who are to protect those girls if you deprive them of their profession? Unless the State is prepared to give them relief they are bound to go on.

Q. Do you not think they will get married if the age is raised to 18?

A. They may.

Q. You say that if the Age of Consent in marital cases is raised to more than 14 and the penal provision is strictly enforced, it will lead to abortion as in the case of virgin widows. Do you not think the cases are different?

A. Supposing you say that the punishment for offences in marital relations is imprisonment, to avoid the husband going to jail cases of abortion may take place in case the girl has conceived.

Q. Even now the law has been there on the Statute Book with 13 as the age and there have been no prosecutions. What do you say to that?

A. But generally girls do not attain puberty before 12 or 13 and consummation does not generally take place before 13. But at 16 there will be many cases and abortion will be the result.

Q. Do you think if the punishment is fine only and we use section 502, Cr. P. C., there will be fear of abortions even then?

A. The wife may not like that the husband should be punished, and the easiest method of avoiding punishment would be abortion.

**Written Statement, dated the 8th September 1926, of Khan Bahadur
H. H. Md. ABDUL AZIZ SAHIB, Madras.**

1. There is dissatisfaction among Muslims as their religious views are affected thereby.

2. So far as Muslims are concerned their own religious Codes are sufficient to guide them from erring in the matter of marriage and there is no necessity for any further law to be enacted in that connection for them.

3. As *qasha* system is prevailing among Muslims no cases have arisen.

In case of seduction of girls for immoral purposes, deterrent punishment shall be inflicted.

4. No law is necessary for the Muslims on this head, as they have to be guided by their Religious codes in these matters.

5. Between 11 and 13 years of age; not among Muslims and Hindus.

6. (1) No.

(2) Yes.

(3) The age is not the factor that is considered but only attainment of puberty is the guiding factor; No.

7. Yes.

8. I am not aware.

9. Such questions should be left to the parents' or guardians' discretion and no outside interference should be permitted, among Muslims.

10. After puberty.

11—13. No.

14. Yes. Immediately after marriage in the case of girls who have attained puberty.

15. No cases are brought to my knowledge and no difficulty is therefore experienced.

16. The question does not arise in the light of my previous replies.

17—18. According to Muslim laws extra-marital offences are to be dealt with severely—marital cases are no offence at all.

19—20. No.

21. The existing Religious codes are sufficient for Muslims.

**Joint Evidence of Khan Bahadur Moulvi HAJI ZIAUDDIN SAHIB,
Khan Bahadur Hakim ABDUL AZEEZ Sahib Bahadur and
Moulvi SYED BARKAT ALI, Madras.**

(Madras, 24th November 1928.)

(Vernacular.)

Mr. Kadri: When in the Council the resolution for fixing the age at 16 was moved did any Mohammadan member vote against the resolution?

A. But I know all the members of the Council are not Ulemas. Koran cannot be changed.

Q. What about the age of consent?

A. Leave it to Nature.

Q. When do the girls attain puberty generally?

A. At about 12. On account of climatic conditions it is at 9 or 10 also sometimes.

Q. It is the opinion of the medical authorities that a girl is not fit to become a mother till 16 and if there is maternity before that the girl suffers and her progeny also suffers that this is one of the causes of infant mortality being great among Mohammadans. Will you, in view of this, like to fix the age of consent at 16?

A. But this is not the only cause of mortality. As soon as the girl attains puberty she becomes fit for consummation. According to Shariat there is no age fixed for consummation.

Q. But in Turkey, Afghanistan, Kashmir and in Egypt a law has already been passed and do you not think that no harm will be done if a law is passed fixing a higher age in India also?

A. 10 or 15 marriages have taken place in my family. In one case the girl was only 10 years and she gave birth to 28 children and all are living.

Q. At what age was the first child born?

A. 12 years. In the case of my friend, his wife gave birth to 26 children and the woman is now 55. The marriage took place at 7 and puberty was attained at 9 and the child was produced at 10.

Q. From the official report I find that out of one thousand children among the Hindus 42 deaths take place, among the Mohammadans the number is 50 and among the Christians it is 30. It is said that early consummation is one of the causes for this high rate of mortality among the Mohammadans. Would you therefore not recommend to enact a law fixing an age at which the girl and her progeny will be sufficiently protected?

A. Among the Mohammadans marriages take place only after puberty. High death rate due to insanitary conditions and not due to early marriage. In certain peculiar circumstances only marriages take place early.

Q. For those exemptions can be made. Will that satisfy you?

A. But you will be going against the Mohammadan scriptures.

Q. But upto 13 there is already a law. Is this against Islamic law?

A. It does not mean that you should repeat the mistake. Two wrongs do not make one right.

Q. According to Shariat the aim of marriage is to produce Aulade Saleh, children fit to serve God and His creature. Do you think unless the parents are quite healthy and fully grown up production of Aulade Saleh is possible

A. According to the Islamic law there are three things which must be done. The circumcision ceremony should be performed at once, the prayer must be performed at once on hearing the call of the Qazi and the third thing is that marriage should take place when the age is attained.

Mr. Shah Nawaz: What is the age at which consummation takes place?

A. 12, 13, 14 or 15. On account of health considerations it is postponed.

Q. When is the girl sent to the house of the husband?

A. Immediately after marriage. According to the Shariat consent of the girl is taken at the time of marriage when she is a major and if she is a minor she has the option on the attainment of puberty, if the marriage is not in her interest.

Q. But if a father or in the absence of the father the grandfather marries a minor girl before she attains the age of puberty and marriage is not in the interest of the minor what remedy would you suggest then?

A. The Mohammadan law is that if the marriage is not in the interest of the minor it can be repudiated even if the marriage is made by the father or the grandfather.

Q. If this was the law perhaps there may or may not be any necessity of legislation, but that is not the Mohammadan law. The marriage performed by the father or the grandfather is binding on the minor.

A. The minor has got a right of repudiation according to the Hanifi law.

Q. Do you know of any case where the girl has approached the court for the repudiation of the marriage?

A. There is no necessity. No such cases have occurred.

Q. Do cases occur but they don't go to court?

A. Yes.

Q. According to Islamic law an Islamic King has a right to step in with a view to stop any serious evils which may spoil whole society?

A. Yes.

Q. If the King thinks that cohabitation usually takes place at an early age and the girls suffer, can he fix the minimum age of marriage by legislation?

A. If it is found that injury will result the marriage can be stopped.

Q. Would you have any objection if the age of consent is fixed at 15?

A. That is against religion.

Q. You are not in favour of any age of marriage being fixed?

A. No.

Q. Do you also suggest that the present law of consent should be abolished?

A. Yes.

Q. The result will be that weak children may be produced at 12 or 13. Will you like that? What is the harm if 15 is fixed in the interest of the health of the girl and the progeny.

A. This is against religion. No change can be made in the Muhammadan law. The Prophet himself said, I have made the religion complete. There is no need of changing it even after one thousand years.

Q. Can a Muhammadan King prevent the doing of a thing if there is no express provision in Muhammadan law for or against it?

A. He may.

Written Statement, dated the 10th August 1926, of the Hon'ble Mr. Justice RAMESAM, Madras.

1. I am not aware of any dissatisfaction with the state of the law as to the age of consent as contained in Sections 375 and 376 of Indian Penal Code.

2. and 12. In my opinion, the causes of high maternity and infantile mortality and other results vitally affecting the progress of the people are not to be sought in early consummation or in early maternity. They are due to the high birth-rate combined with the small intervals between successive births and the remedy lies not in further postponement of consummation (i.e., beyond an year after puberty or beyond 13 whichever is later) but in the practice of birth-control. Even a marriage consummated at 14 or 15 may result in a large number of children spaced at small intervals and high infant mortality and maternal mortality. It is a common-place in books on Economics that a high birth-rate is followed by a high death-rate (*vide* Harold Cox—Problems of Population; Carr Saunders—The Population Problem. *Ibid*—Population—Oxford—World's Manuals; Brij Narain—Population in India; Rutgers—Eugenics and Birth Control). The figures in Table II of the last work, are for European Countries but the facts are equally true for India (see page 26 of Harold Cox's work contrasting with page 27 which gives figures for England and page 61 of Carr-Saunders-Population). The following table in Rutgers (pages 23 and 24) illustrates the progressive rise in the rate of infantile mortality with the increase in children. (The first table is also quoted in Dr. Norman Haire—Some more views on Birth control.)

The mortality (within one year after birth) of—	Per cent.
Second born children	20.4
Third born children	21.2
Fourth born children	23.2
Fifth born children	26.3
Sixth born children	28.9
Seventh born children	33.1
Eighth born children	33.2
Ninth born children	36.1
Tenth born children	41.3
Eleventh born children	51.4
Twelfth born children	59.7

Infantile mortality in families—		Per cent.
With two children	.	19.1
With four children	.	23.4
With five children	.	24.5
With six children	.	31.1
With seven children	.	35.8
With eight children	.	40.8
With nine children	.	52.5

In families of—		Per cent.
1-4 children	.	22.6
5-8 children	.	30.2
9-12 children	.	49.5

The obvious remedy lies in diminishing the size of the families and spacing the intervals between births and not postponing consummation. It is noteworthy that in all the tables of Rutgers, he takes women between 15 and 50 years of age as women capable of bearing children (see Table IV). This means they are capable of consummation at 14½ years. Carr-Saunders at page 256 of the *Population Problem* defines "females of reproductive age as those between 15 and 45 and children of such women comprise legitimate and illegitimate children (Rutgers Table IV) and this in European countries where the age of puberty is higher than in India. The following table from Carr-Saunders *Population Problem*, page 91 shows that the age of puberty rises progressively with the coldness of climate:—

City.	Average age of puberty		
	Yrs.	M.	D.
Christiania	16	9	25
Berlin	15	7	25
London	15	1	14
Lyons	14	5	29
Marseilles	13	11	15
Calcutta	12	6	0
Sierra Leone	10	0	0

Zone.	Average age.	
	Yrs.	M.
Tropics	12	9
Temperate	15	5
Cold	16	5

The figures for Madras Presidency would be less than Calcutta.

It is true that climate is not the only factor. A better education of girls and simpler diet may offset the effects of a warm climate and may raise the age of puberty even in the Tropics. But it must be first effected before raising the age of consent by legislation. To force legislation before the environmental condition of the girls is improved will seriously affect the morality of the country. If, in a generation the age of puberty rises to 13, legislation may raise the age of consent to 14. We have waited thirty-three years for raising it from 12 to 13. What case has been or could be made out in two years for raising it from 13? I do not expect the people or the Legislature to welcome at present into India the state of morals depicted in Judge Lindsey's "Revolt of modern youth"

and "Companionate marriage". In due time, India also may take its place in a civilization typified by such conditions. But who will hasten the process? That the sexual urge is too much for convention and morality is seen in the rate of illegitimate births in European countries.

Illegitimate birth per thousand married women (15-50 from Rutgers)—

Sweden	26
Norway	13
Finland	17
Denmark	24
Iceland	23
England-Col.	7
Scotland	13
Ireland (Diminishing population)	4
Holland (Birth control for 45 years)	5
Luxemburg	14
Belgium	12
France	16
Switzerland	8
Germany	23
Austria	30
Hungary	38
Russia	17
Belgium	4
Roumania	48
Servia	7
Bosnia	5
Greece	3
Italy	14
Spain	14
Portugal	28

Does anybody want this (or its alternatives—abortion and infanticide) to be repeated in India?

That the small intervals between births is equally productive of evils is shown by the following table from Mairé Stopes-Contraception:—

	0 1 Years interval.	1 2 Years interval.	2 and over.
	Per cent.	Per cent.	Per cent.
Death rate of children	35.5	25.5	18.5

According to Kisch, the optimum interval is 2½ years (page 297).

According to Dr. Norman Haire it is between two and three years (page 50). As to the effect on mothers, see pages 42-43 of Stopes-Contraception. According to her, at least two, preferably three and even five years should be the interval between births in the interests of the mother and the child.

That early marriage (by which I do not mean child marriage or consummation below 13 or below one year after puberty) is not the curse it is generally supposed to be, is shown by the following references:—

Hertrand Russell, F.R.S.—What I believe—(To-day and To-morrow Series) prolonged virginity is, as a rule, extraordinarily harmful to women.

Arthur Thompson, M.A., LL.D., Professor of Natural History Aberdeen.—“Towards Health,” page 114. We venture on a few pieces of advice

(e) Why not fall in love keenest of spurs, strongest of curbs and look forward to early marriage even if it mean birth-control.

Sir James Burr (in Dr. N. Haire's some views on birth control, page 57).—I have always encouraged young people to marry early, to lead pure loving lives and to limit the number of the family according to circumstances.

F. A. E. Crew, M.D., D.Sc., Ph.D., F.R.S.E. (*ibid.*, page 105).—I prefer the scheme of early marriage with contraception practice.

Charles E. Goddard, O.B.E., M.D. (*Ibid.*, page 152).—For many, it is better to marry early than to suffer years of repression with the other sex difficulties and troubles already referred to.

Aletta Jacobs, M.D. (Dutch apostle of Birth control) (*Ibid.*, page 187).—The facilitation of early marriage adds to the happiness of a native very greatly when secure in the knowledge that they can postpone the advent of children until they afford to keep them.

M. Hamblin Smith, M.D. (*Ibid.*, page 210).—Delayed marriage is open to grave objections. It involves either much repression or the encouragement of prostitution and irregular unions or to adoption of practices which many people object to.

Dr. Loewenthal of Munich.—While advocating late marriage “admits that, in some countries when people mature early, early marriage is advisable” quoted from Wills on Wedded Love.

I am aware that the word “early” in these quotations is not the same thing as the “early” of consummations in India. But, still remembering that scientific opinion is not in favour of the delayed marriages of the West and making due allowance for the difference in climate, I am of opinion that legislation is uncalled for.

In England, the age of consent for males is 14, and for girls it is 12 (Stephens Com. 18th Edition, 1925, Vol. I, Part V, page 481). I am not able to obtain the figures for America. But I find in the Birth Control Review for May 1928.

“State Legislation Programme.

1. *Minimum age for marriage.*—At first this can feasiably be made only one to two years higher than the age stipulated in the state. Sixteen years is the goal to be sought.”

I infer that no state in America has “16” as the age of marriage. We may follow in the wake of America and need not overreach her. I respect the ideal of 16 (Susruta Samhita) but we must work up to it laboriously by other means and not force it by legislation which is not magic.

3 Cases of seduction or rape are not frequent in this Presidency. I cannot say that any particular effect—for the better or for the worse—has been produced by the amendment of 1925. I cannot suggest any measures.

4. (1) I have very little information as to how far the amending Act of 1925 has been strictly obeyed or disobeyed. Among the educated classes, even before the amendment, the practice was, very often, not to consummate the marriage before 18 and that practice still continues, the amendment giving it greater support. Among other classes, I cannot say whether the law is strictly obeyed or not.

(2) It is doubtful if, assuming that there is some change of public opinion in the direction of postponement of consummation the change in the law has contributed to it.

(3) Among certain classes, the ceremony of marriage (of the nature of a betrothal and not involving consummation) must be performed before puberty. Even among such classes, a few instances occur of the marriage

being postponed beyond the age of 18—the fact of puberty being either concealed or not openly avowed. Perhaps they are continually on the increase at a slow rate. But I do not think that the amendment of the law in 1925 has anything to do with these cases. The real reasons tending to the postponement of marriage beyond 18 (both among these classes and other classes) are either economic or the difficulty of finding suitable husbands. I cannot suggest any legislation for obtaining results in the directions indicated. The only effective step for obtaining them is the larger education of girls and raising the status of women including her cultural condition. This is ultimately an economic problem. Only very few families can afford to give the girls education upto the High School or College grades. It is only when the "quantity" (i.e.; numbers) is diminished that the quality rises and real uplift of the people can be expected. "*Non quantitas sed qualitas*" is the motto of the English Mathusian League and I believe in it. The only way of improving the quality is the practice of birth control. At least I believe that this is the only way for a country in the present political condition of India. The cases of Japan and England and Wales are different and even they cannot get on hereafter without birth control (See Kerr—Is Britain over-populated).

5. The usual age of puberty in this Presidency is 12. I most emphatically contradict the statement of Sir H. S. Gour (which he made twice in the Legislative Assembly) that Hindu girls do not attain puberty before the age of 14. His statement is not true of Southern India. On the one hand I know cases of puberty at 9½ and 10½. These are abnormal. But cases of 11½ are very common. On the other hand I know cases of puberty at 13 and 14. These are abnormal on the other side—though I expect them to become commoner. The average age is 12.

6. I think cohabitation before puberty is uncommon. In exceptional cases, when puberty is abnormally late, it happens. Generally it may be ignored.

(2) Cohabitation soon after puberty is common.

(3) Cohabitation before the girl completes 13 was common before 1925 provided she has attained puberty. But I cannot assume that it is common after 1925 as I have no definite information that the law is being disobeyed. It is possible that it is being secretly disobeyed among the uneducated classes. But I have not seen a single case coming to Courts.

7. There is no religious injunction enjoining the early consummation of marriage before puberty. On the other hand I distinctly remember my father (an orthodox gentleman now dead) quoting a *Sastra* against it though I cannot now give the reference. Nor is there any law enjoining consummation immediately or within a certain time after puberty. The practice of early consummation before or after puberty has nothing to do with religion. It is due to the desire of the husbands. It does not exist among the educated classes (I know exceptions) or among students who are still pursuing their studies.

8. The *Garbhadhan* ceremony is generally performed in this Presidency. It is the same as or coincident with consummation of marriage. Generally it is performed after puberty and is different from the marriage ceremony in classes who have pre-puberty marriage. In classes with post-puberty marriage, it is performed on the 4th day of the marriage ceremony. As to the last part of this question, see answers to earlier questions.

9. I do not consider that the attainment of puberty is a sufficient indication of physical maturity to justify consummation immediately. There must be the lapse of one year after puberty to justify consummation without injury to the health of the girl and of her progeny.

10. I should say that South Indian girls are intelligent enough to give consent a year after puberty. There will always be exceptions.

11. I have not come across cases of the kind indicated in this question. As I already said, cohabitation before puberty is uncommon. I am not aware of any injury following cohabitation after puberty.

Last vacation (1928), sitting as a vacation Judge, I had a case of rape on a Muhammadan girl aged 13 (probably who has attained puberty) causing injuries resulting in her death. But this is very exceptional.

12. I do not think there is any general development of public opinion in favour of the extension of the age of consent. It is confined to the Social Reformers (not all) who are infinitesimal in number and who commit the fallacy of imagining that the environment of the general population is the same as theirs. We know it is not.

13. I do not think women have any particular views on this matter. Educated women will be against consummation before 13.

15. I cannot say as no cases have occurred. I can make no suggestions.

16. I cannot say. I fear that, if the age of consent is raised, there may be difficulties of proving the age for the prosecution. False defences will succeed and the law will be a dead letter.

17—18. I have no particular opinion.

19. I cannot suggest. We have no experience of any kind in such matters.

20. I emphatically protest against legislation fixing the age of marriage thus compelling classes who are accustomed to pre-puberty marriage as a matter of religion to postpone marriage to after puberty. I am against Mr. Sarada's bill and I have given my reasons in my opinion on it. I prefer the legislation dealing with the age of consent to it. But even as to this, I do not agree to further raising of the age now. My opinion is most in consonance with public opinion in my Presidency.

21. I would certainly rely for further progress on education and social propaganda and I am against compelling legislation. I am not against enabling legislation of however progressive a kind but I object to one class dictating to another who ought to have the liberty to be left to their own fate, assuming they are foolish (which is not always clear).

A case which I had before me as vacation Judge and which I could not properly mention under Question 11 may be mentioned here. A young Pariah girl of 14 (who has attained puberty) and a young Pariah male of 19 or 20 were working as labourers on the field of their master. They came so continuously into contact with each other that they fell into love, had intercourse and the girl went to the man's house to live with him. The man is accused of kidnapping from lawful guardianship and has been committed to the Sessions. I released him on bail.

The facts speak for themselves. Presumably they are healthy as they live an open air life. It seems to me it is better to marry the young persons than to punish the man. I think we should remember that any legislation is not for a few educated people but for all the 247 millions of British India for varying climates ranging from the Punjab to the Cape Comorin.

***Oral Evidence of the Hon'ble Mr. Justice RAMESAM, Judge, High Court, Madras.**

(Madras, 24th November 1928.)

Chairman: What according to you is the safe age for motherhood here in India? When can a girl be a mother without any evil consequences to herself or her progeny?

4. 12 years after puberty subject to a minimum of 14, provided it is followed by the practice of birth control. If birth control is not there,

there is no safe age for motherhood. What mankind is suffering from is not early motherhood but frequency of child-birth.

Q. You are speaking of the deterioration of women and children and you are of opinion that it is due to want of contraceptives.

A. Substantially. There are other causes also. Want of sanitation, ignorance of the people are other causes. But the substantial cause is the large number of children that are born at short intervals. High maternal mortality and high infantile mortality are largely due to the high birth rate. Large number of children accompanied by the short spacing of pregnancies is the main cause. If that is taken care of, early consummation is a small matter. It may be small contributory cause of high maternal and infantile mortality. Some little force may be given to it.

Q. Supposing a girl attains puberty at 9, 10, or 11 do you mean that one year after it, i.e., 10, 11, or 12 she is fit to be a mother.

A. I must qualify my answer like this. The law must stand as it is. I am not for going back. The only question is whether we should take a further step.

Q. If medical opinion comes to the conclusion that 16 and over is the safe age for motherhood would you be inclined to change your view?

A. I have read lot of medical opinion and I find that the medical authorities have not come to that conclusion. (The witness here quoted the various medical authorities *vide* statement attached.)

Q. So that you want that consummation should take place soon after puberty?

A. Let us be exact, and I will say, the consummation may take place one year after puberty.

Q. If the girl attains puberty at 15 would you postpone consummation till 16?

A. Yes.

Q. According to Dr. Norman Haire whom you have quoted consummation should take place immediately on the appearance of menses. Then you mean that if menses appear at 10 there should be consummation without delay or at the most, according to you, it should come at 11.

A. I don't think Dr. Norman knows of such extreme cases. He does not know of tropical countries.

Q. What age would you have in tropical countries then?

A. One year after puberty. (Subject to minimum of 13½.)

Q. I tried to show you that if we take "immediately" to mean one year after puberty there may be cases of consummation at 10, or 11, i.e., before 12.

A. We must avoid extreme cases. So long as such cases are abnormal and extreme they must be ignored.

Q. But many girls do attain puberty at 11. Is it not?

A. But I said that all my answers will be governed by the statement that I don't want to go back on the existing law. The present law should be there. Exceptional cases must be ignored. Most propositions are subject to exceptions either at this extreme or at that extreme, and truth lies strictly in the middle.

Q. What is the usual age at which girls attain puberty in these parts?

A. 11 and 12. Both are very common.

Q. We have been told that between 13 and 14 a large number of girls attain puberty. What proportion of girls, do you think, attain puberty at 11 or 12?

A. It is rather too difficult for me to say. 11 is very common and 12 is equally common. But if you take the average it will come to 12. There are exceptions. I know of a girl who has not attained puberty though she is 14½.

Q. But many cases occur at 13.

A. One year's difference is not much difference. It is not worth discussing.

Q. If it is 14 will it be a point for discussion? Why don't you go to 14?

A. No case has been made out. The age was originally fixed at 10. When the Hari Mathi case occurred it was raised from 10 to 12 in 1891, and it was after about 33 years that it was raised to 13. We waited for 33 years for raising it to 13, i.e., by one year. Why should you accelerate the pace so suddenly now? Let us wait for another 30 years before making any other advance. We are a barbarous country and there are more civilised countries. Even in England the age of marriage is 12 and the age of consent is 16.

Mrs. Nehru: That is with reference to extra-marital cases and there is no question of marital cases there.

Mr. Shah Nawaz: As regards the age of marriage, are the marriages at that age invalid or can be only penalised?

Chairman: Below 12 the marriages are invalid. But in practice no marriages take place at that age.

A. You can leave out England. Even in other countries the age is 11 or 12 (The witness here quoted the age of consent in different countries vide statement attached). It will be noticed that in five cantons of Switzerland the age of consent is the age of puberty. India need not move beyond this. It should be content to follow in the wake of these countries.

Q. Would you base your argument on the fact that different countries have different ages of consent and that the same should be applied to India?

A. How can one country adopt the opinion of others? Conditions are different in different countries. But how far have we studied the effect of raising the age to 13?

Q. But even in 1925 popular opinion was for 14 and 16. Was it not?

A. It was the opinion of the advanced social reformers.

Q. I call it popular because the Legislative Assembly passed a resolution in favour of 14 and 16.

A. The members of the Assembly do not represent the people. Most of them are advanced social reformers. They must know that they have not to make the law for themselves alone. They must remember that it is also meant for the uneducated and the ignorant villagers, it is also for the uneducated who work in the fields, and as servants in houses. Unless the sexual passion is supplanted, and thought and attention (is) are diverted into proper channels by sending the girls to schools and colleges for education you may drive both the boy and the girl into immorality. The boy may misbehave with another girl and the girl may misbehave with another boy. The poor cannot all send the girls to schools and colleges.

Chairman: Now I want to ask you certain facts to your personal knowledge. Do you know girl mothers of 13, 14 or 15?

A. I have not heard.

Q. Have you seen girls before 15 is complete becoming mothers?

A. No: I have not seen in South India. As a matter of fact in Southern India, owing to economic conditions, marriages and consummation of marriages are happening late now.

Q. What do you mean by late?

A. I mean by the word "late" later than former years. Formerly it was 9 or 10 but now it is 12 or 13 for the age of marriage.

Q. Do you know of cases where girls become mothers before 15 is complete?

A. I know they become mothers in their 16th year.

Q. Supposing in the present day we find girl mothers of 13 or 14 or 15 or before 15 is complete, do you think there will be any basis for legislation with regard to that?

A. There may or may not be. I do not speak of the other provinces. It depends upon the cultural condition of the people. It may be necessary in other provinces. All that I say is that Northern and Southern India must be differentiated. Dr. Gour suggests 14 as the age of puberty. It is absolutely wrong for Southern India.

Q. Is there a very large proportion in Southern India who are bound by the law of pre-puberty marriages?

A. It is very difficult to say that. But roughly I would say that Brahmins and Vaishyas are following the law. They don't come to any percentage beyond the Brahmins and Vaishyas and a very small fringe of people who try to imitate the Brahmins.

Q. What is the percentage of people who have really pre-puberty marriages?

A. You can easily take the percentage of the Brahmins and Vaishyas but there are a large number of other classes who imitate the Brahmins. But still it is very difficult to find that out.

Q. How many are for post-puberty marriages?

A. You cannot know unless we total up the Brahmins and Vaishyas and the fringe of other people who try to imitate those classes.

Q. On the other hand don't you realize that there is a certain percentage even of the pre-puberty classes who are celebrating marriages at higher age?

A. Yes. They are pushing the age gradually by themselves without legislation to compel them.

Q. Apparently you don't want either a law of marriage or the law of consent being raised.

A. I don't want to say I don't want any law. I am particularly concerned with the scandal of childwidows and that ought to cease to exist. So as a first step if you have a law prohibiting marriages below 9 or 10, it will not raise any opposition and it will conciliate the most orthodox people, and all widowhood before that age will cease to exist hereafter with one stroke of the pen.

Q. Are you satisfied if only girls upto 9 are preserved?

A. I am satisfied with 9 because it will conciliate the orthodox opposition.

Q. Don't you want to protect the girls from widowhood upto 16?

A. These will be extreme cases and must be very few and extreme cases cannot be judged like the middle cases.

Q. Why do you come to 9?

A. To conciliate the orthodox opposition and it will not have any kind of opposition in India.

Q. Do you want the law of marriage upto 10?

A. You may have it.

Q. Do you want the law of the age of consent only upto 13?

A. Yes. I don't want to raise it beyond 13. I don't know the time for raising it may come or may not come. I cannot anticipate things. If I look at the things at America, it may never come because it is a chaos of morality.

Q. Supposing a girl starts motherhood at 13 and another girl starts motherhood at 18, what will be the result?

A. I think in both cases the infant mortality will be very high if the spacing is very small.

Q. Supposing all other conditions are the same, can you give us any other reasons beyond this?

(Witness is reading the table.)

A. As the number of children increases the mortality increases. This shows a large birth rate is followed by a large death rate. Whatever the spacing is, the mortality is high if the number of children increases . .

Q. I want an authority for supporting your proposition. Supposing girl starts motherhood at 13, the spacing and all other conditions being equal and another girl starts motherhood at 18, what would be the result?

A. There is no authority to find that out unless we get at families where there will be actual spacing but it is the opinion of all doctors that whatever be the spacing, high death rate is due to high birth rate. As a matter of fact actual spacing has not yet begun in any civilized country except perhaps in Holland.

Q. We are told that if a girl starts motherhood at 13, her vitality is sapped. So we want to know whether the result in the case of a girl who starts motherhood at 13 will be exactly the same or better or worse than in the case of a girl who starts motherhood at 18?

A. My own impression is in the present state of civilization I don't know whether you will get that sort of figures except perhaps in Holland.

Q. Now with regard to the question of the evil of too many children, you suggest contracepts as a remedy against too many children. Is that so?

A. Yes.

Q. Will it ensure good and strong children?

A. Yes. I have medical opinion in favour of that. Dr. Norman Haire deals with that. There is no danger in using contracepts. There is no book on Birth Control which I have not read. My opinion is that it is not injurious to the health of the children that are born, not to the mothers.

Q. I want to know whether there is any authority for saying that if the contracepts are used—by avoiding so many frequent pregnancies—the health of the children will be secured.

A. I think that is the trend of all the writers including Stope's Contraception, pages 42-43.

Q. But I thought that Birth Control related only to children.

A. It is to improve the health of the mother and her child. Of course I cannot bring you a library to justify this to you.

(Witness has promised to send references for this.)

Q. Am I to take it that use of contracepts would not be harmful? *

A. The health of the children will improve.

Mr. Kanhaiya Lal: You talk of religious injunction regarding the pre-puberty marriage. Have you studied the religious injunctions?

A. I know them. I don't believe in any of them. I am thoroughly heterodox. My opinion is based on science. I care a scrap for religious injunctions.

Q. I understand that the Brahmins marry their girls before they attain puberty.

A. They do so.

Q. Do the Brahmin girls attain puberty before 12 years?

A. Yes. Some.

Q. What the orthodox people want is that they may be allowed to marry at 9 or 10. Will they not go upto 12?

A. Going upto 12 means going to the danger line. So far as Southern India is concerned there is no fear upto 10 or even just at 11.

Q. Do you mean to say that the Brahmin girls in South India do not attain puberty before 11 or 12?

A. 11 is very common but not below 11. It is very rare.

Q. We were told by the Government Advocate and Mr. Rangachariyar who gave evidence that the minimum age of 12 will be acceptable to the orthodox Brahmmins.

A. I don't think so. I want to give you one warning Sir. South India consists of four different classes. There are the tamilians, kanarians, malayalees and the telugus, whose customs are different and who live in different parts of South India. I belong to the Telugu community. Mr. Rangachariyar and the Advocate General are tamil brahmmins and I believe the age of puberty amongst them is higher than amongst the Telugus. The Telugus are accustomed to more stimulating diet. They eat more chillies. In Malayalees the age of puberty is more than in any of these three communities. When Mr. Rangachari and the Advocate General spoke they thought only of their communities. Every man thinks of his community, of his district and is unable to extend his vision to other communities. When you attempt co-ordination by legislation, you could only go to a minimum legislation and beyond that you will be committing a mistake.

Q. We have got evidence from Pandits that they are willing to go upto 15 regarding the age of consent.

A. As a matter of fact for the age of consent I have no religious objection, but if the Pandits are agreeable I have no objection. If the pandits say so, that means there is no *smriti*. My fear is about the morality of the country. If you prevent a man and his wife above 18 who are mutually inclined towards meeting each other, that may end in a scandal. The man may go in one way and the girl might go the other way, in which case it may ruin several homes. Why should you prevent such cases from meeting each other? That is why I say I don't want any increase in the age of consent. Even if there are ten per cent. of such cases, your legislation would produce evil instead of good. See Dr. Dickinson at page 38 of "Medical aspects of Contraception" where he says "Believing in early marriage for reasons of chastity".

Q. You think there is the apprehension or fear in you mind that they may possibly go wrong.

A. I think that apprehension is rather substantial.

Chairman: Even if the age of consent is raised to 16.

A. Certainly the fear is so strong. I will strongly protest against raising the age of consent for this Presidency. I will leave it at 13 or 13½ and not beyond that.

Q. Have you come across any such cases going wrong?

A. I think many cases but they are being hushed up by the parents.

Q. Is there a large number of childwidows below 16 amongst the Brahmmins?

A. I think there is a good number.

Q. Do you think that there is a good deal of scandal about these widows?

A. About many of them there is. In 75 per cent. of them there is. There is a small class who preserve their morality by leading a chaste life.

Q. Don't you think that what applies to our daughters applies to widows?

A. The widow's attitude is different from the maiden's attitude. The widow is not asked to look at the aspect of her future life but a maiden looks forward for life and normal pleasure. But even amongst the widows you find there is a lot of temptation for carnal pleasures.

Q. Do you think there is a great deal of immorality amongst the widows?

A. I think there is. The daughters' case is therefore an *a fortiori* case.

Mrs. Natar: There is a very large number of girls in India who marry after puberty amongst the non-Brahmins. Do you think there is any danger in them?

A. I have known non-brahmin friends say that it requires a continuous watching. On the whole they are not happy under those conditions.

Mr. Shah Nawaz: Do you think there is danger amongst the girls of all communities?

A. It is a very difficult to answer a question of that sort. It depends upon the environments. For instance there are girls who work in the fields; and there are girls who are educated and who go to schools. So it depends on the environments.

Q. Is there danger of a Brahmin girl going wrong?

A. Certainly.

Q. Do you know of any instance where a Brahmin girl has gone wrong?

A. I know a few instances.

Q. What is the age you want in extra-marital cases?

A. You may make 16 or 18 because here I am very indifferent as very few will be anxious to punish the offender and the offences will be hushed up.

Q. Should we keep the present age or raise it in extra-marital cases?

A. You may raise it to 15 or 16. I have no objection.

Q. I want to know from you what is the feeling of Brahmin ladies about the question of marriage?

A. There is a certain number of Brahmin ladies who are very advanced thinkers and they take part in public meetings and pass resolutions, etc. Some are not so highly educated and some are orthodox. Of course the advanced thinkers would welcome a change. One lady spoke in the Indian Ladies' Conference held in Madras in December last. What she said is "if a man and a woman are married and if a man dies why should a woman be called a widow. Why should this woman suffer because the man dies". I quite agree with her in this respect. But except me and the speaker nobody in the world will sympathise with her. Even a missionary looked aghast at the Brahmin lady who said this. Keeping aside the very advanced class, others don't want any legislation in matters of this sort.

Q. Of course you are in favour of widow re-marriage. Suppose we were to put the minimum age of marriage at 11, would that lessen the number of widows?

A. Yes. But the best thing is to conciliate all sentiments by fixing the minimum 9 or 10. If you make it 9, I don't think there will be any opposition.

Q. Would it please them at 8?

A. Yes. That is more welcome. But some figure must be retained seeing the widows of 5, 6, 7 and so on in India. I tell you there are 1,305 widows under the age of 5. I want to abolish them.

Mr. Bhargava: You know according to shastras marriages must be celebrated at 8. Suppose if the age of marriage is increased, will it not offend the sentiments of the orthodox people?

A. It will offend some, but not the majority.

Q. Suppose if the marriage is declared invalid, at the age of 8, will it not offend the orthodox people?

A. If a law is passed, I expect no marriage will happen.

Q. You have been pleased to say that after some time the things will be brought about in such a manner that the existence of these widows of 5 and 6 or marriages below 8 will be stopped. Is that correct?

A. That is my expectation.

Q. Supposing the marriageable age is raised to 12 or 14, can it not be said that after some time, these marriages below this fixed age will be stopped?

A. I think that in that case they will begin to lie and they will go to Native States and perform the marriage and come back. As a matter of fact every Native State in the country has to follow the practise of British legislation to avoid the evasion.

Q. If there is a legislation that they will be punished as soon as they come to British India, will they not be prevented from doing so?

A. Even if they return to British India, you will find it very difficult to enact a law to punish them.

Q. Supposing they are British Subjects.

A. Supposing they change their domicile.

Q. Do a number of people do that?

A. If you fix 11 or 12, they may go to Mysore and perform the marriage and come back here. So to start with a minimum is a very good instalment even according to the orthodox sentiment. We shall wait and slowly increase it. You have got the French Territories. The French law is 13. If you raise the age to 14, they will go to French Territories and call themselves French domiciled.

Q. May I know if in any civilized country early marriage is the rule as it is in India?

A. In Pacific Islands you have got this state of things.

Q. Do you think there will be any riots if this law is enacted?

A. I cannot say. It will be resented.

Q. About your Birth Control, do you think that in India people have to be prepared for it?

A. They have to be prepared.

Q. It has been suggested that according to shastric injunction if a husband does not go to his wife within 16 days after puberty, he is committing Bronhatya. Do you believe in this injunction?

A. This is an idiotic idea. All that I can say is that very few people attach any importance to such injunctions. I can quote verses for every position.

Q. Will you care for the sentiment of those people?

A. I don't care. It is so silly I cannot care for it.

Q. Will you have legislation for each province separately as you have said that Southern India must be distinguished?

A. I am not a legislator. It is for you to do it. The Government may have a general Act. This act can be extended to each province if it is required. I have no belief in these Legislative Councils.

Mr. Mitra: Have you taken into consideration the economic condition of the people in India when you recommend birth control as a remedy for these evils?

A. It is because of the economic conditions that I am advocating birth control.

Q. Do you think that instead of a law of consent, we might have a law of birth control?

A. It is rather impossible. Contraception by legislation is practically impossible. Contraception is punishable in France. I do not think it is right. It is only by preaching that we can do it. In Holland the State is practically helping it. In Central America in the State of Yucatan a copy of Mr. Sangera's "Family Limitation" is presented to the married couple at the time of marriage.

Q. You say that some Europeans advise early marriage. May I take it that early marriage amongst European means marriage at 20 or 21?

A. I am quite aware and I have said that the word "early" mentioned in the quotations I have given is not the same as the word "early" when applied to consummations in India. Still I would like to point out that eminent people like Dr. Norman Haire, Bertrand Russel and others are of the opinion that early marriage is the remedy for many of the social evils that exist in their country.

Q. What do you think is generally the age of marriage of girls in England?

A. I have gone through the Statistics published by the Registrar General of marriages and I find that there have been 35 marriages of girls of 17. This sort of thing happens even in England.

Q. I think you are of opinion that orthodox people rely on the Sloka "*Ashta Varsha, etc.*"?

A. There is another version of the Sloka also, but that is immaterial so far as I am concerned. For my part I do not care for them at all.

Q. Do you think that orthodox people will object if the age is fixed at 10?

A. I think there will be objection.

Q. Supposing the age is fixed at 8?

A. There will be absolutely no objection. There will not be a modicum of opposition to the measure. I understand in Gujarat such a measure will be absolutely necessary. I think legislation even if it fixes the age at such a low figure is worthwhile.

Mrs. Nehru: Do you think that in countries where the age of marriage is much higher than in India immorality is more prevalent than in India?

A. I think so. Judge Lindsay says so. Upton Sinclair in his "Book of Life" says so. He says that in New York there is no woman in high society who has not misbehaved.

Q. Do you not think that these figures you have given in your statement are given prominence in those countries because they are organised, and that we cannot get similar figures for India because we are not organised?

A. I do not think so. Later we have tables of illegitimate children in all European countries, and we find that girls of 15 have had illegitimate children also.

Q. From the Tables we cannot say that the illegitimate children need necessarily have been at 15. What I want to point out is that all these figures are given more prominence there because those people are well-organised and they put in black and white everything either good or bad; whereas we do not know what is going on in our country. Is that not so?

A. For the matter of that when I say all these things, I know what is going on in my surroundings.

Q. But one particular man's experience will be limited to his sphere and he cannot generalise on that.

A. I know the conditions in Madras generally. In Judge Lindsay's Book he warns people from page to page, and says that what he says in his book is true of every city in America.

Q. If somebody were to write a book about the hill tribes in India that will disclose an appalling state of things.

A. Still my impression is that there is a great deal of immorality in America. Judge Lindsay does not say that it is not found in other cities. Upton Sinclair says that immorality is very great in California and New York. In Illinois there is a high school where the condition for the admittance of pupils to a Debating Society is that they must have misbehaved at least once. We do not have that sort of morality in India.

Q. You have mentioned the case of a Muhammadan girl. Was the girl married?

A. I think she was not married. She is now working in a field under a Vysya landlord. It was a very exceptional case. I remember the case of another Muhammadan girl. Her betrothal was settled; but one day she went to a neighbouring house and sometime afterwards it was found that she had become pregnant. The betrothal was put an end to. She was married to a blind man, but the man died, and she became a widow. She has now married another man. Her father is one Meera Sahib, and he is working as a servant under a Zamindar. The girl never complained immediately but only after about three months. Whether it was force or consent we cannot say.

Q. Do you think the age of consent law is known to the people in the villages?

A. I think people know.

Q. Is it after the amendment of 1925?

A. My suspicion is that people know. I have heard of a consummation last week in my neighbourhood of a girl aged 12. But I do not think anybody can catch them.

Q. May I take it that you oppose the law because you think that it will be a dead letter? But do you not think that it will serve as a means of propaganda?

A. No. My own idea is that if you fix the age of consent at 15 you would be assuming that girls attain puberty generally at 14. But people would say that it is not in their power to make girls attain puberty at 14. My suggestion is that by a change of mentality and a change of the diet you can change the conditions. Heridity is also an important factor and by heridity you can change that. A simpler and non-stimulating diet will also produce the change. And then it will be very common for puberty to come at 14.

Q. Even at present in India there are a large number of girls who are consummated two or three years after puberty. Do you think that in their case the fear in your mind will be justified?

A. That sort of thing happens only when the girls are not otherwise employed. My own daughters are going to college but I am not afraid of them.

Q. Are there in Madras and in the villages some girls who are married at the ages of 18 to 20?

A. Yes; in some castes. But I do not know anything about their moral condition and I have my suspicions as to case of some founded on good criterion.

Extracts furnished by Mr. Justice RAMESHAM.

Dr. W. J. Robinson; M.D.: "Birth Control or the Limitation of offspring" page 110.—If early marriage become a common thing, and if the fear of impregnating one's wife were eliminated, the greatest part of the demands of prostitution would be cut off. And the diminution of prostitution goes *pari passu* a diminution in venereal diseases.

Early marriage would have other beneficial effects: it would diminish masturbation and would tend to diminish the evils of abstinence, neurasthenia and various other neuroses.

Edwin C. Walker (Being an article from the "Critic and Guide" of New York—a Journal edited by Dr. W. J. Robinson). Ibid. page 205.—Late marriage, as preventive of conception is a kind that inevitably and greatly augments the volume of involuntary sexual excitation in men and women, strongly tends to make early and occasional masturbation the habit of years or of life, leads surely to increased patronage of the prostitute and

so more widely disseminates sexual diseases, spread homosexuality, discourages normal and healthy sociability among men and women, driving members of each sex into one sided associations that narrow the social outlook and harden the sympathies and disturbs and wrecks the nervous systems of millions.

J. B. S. Haldane-Daedalus: (To-day and To-morrow Series), page 68.—If reproduction is once completely separated from sexual love mankind will be free in an altogether new sense.

Page 65.—Attributes to an imaginary essayist "The separation of sexual love and reproduction which was begun in the 19th century was completed in the 20th century.

Bertrand Russell, F.R.S.: "What I believe" (To-day and To-morrow Series), page 54.—Prolonged virginity is as a rule extraordinarily harmful to women, so harmful that, in a sane society it would be severely discouraged in teachers.

Dr. Norman Haire: "Hymen" or the future of marriage. (To-day and To-morrow Series), page 43.—The sex appetite does not manifest itself in its fully developed form until the age of puberty. This appetite has been shown to be directly dependant on the physiological activity of the gonads—a pair of ductless glands which in the female takes the form of the ovaries. These remain comparatively inactive during infancy and childhood and do not function fully till the approach of puberty which is indeed the outward sign of their activity.

Page 45.—The thwarting of such an instinctive urge cannot be achieved in the normal person, without interference with health—all sorts of mental and physical disorders may result, and often the impulse too strong to be thwarted finds an outlet in some infantile or abnormal channel.

Page 52.—At this age, (the age of sexual maturity) normal youths and maidens are ripe for mating. Puberty has ensued as a direct result of the increased activity of the gonads. Mating should occur without delay. Long postponement of normal sexual activity may lead to physical and mental ill-health, to a continuance of auto-erotic activity (which in the adult is an unsatisfactory substitute for normal sexual intercourse, and which if persisted in too long may even lessen the person's fitness for normal mating) or to various forms of sexual aberration.

It is desirable then that mating should be rendered possible soon after sexual maturity. This is possible of attainment in two ways: firstly, by early marriage and secondly, by pre-marital experience. Early marriage is at present considered more desirable, is becoming very frequent in America and is likely to grow increasingly popular.

Wider dissemination of information on contraception will facilitate early marriage, because it enables young people to marry, secure in the knowledge that they need not fear the advent of children before they can afford to keep them.

Page 86.—The knowledge of contraception by facilitating early marriage is likely to diminish irregular unions.

Page 94.—With better sex-education and improved facilities for normal mating soon after maturity, we may expect that the vast majority of mankind will find happiness in a normal union.

League of Nations Publications (Geneva, April 30th, 1922), C. P. E., Vol. 1)

Age of Consent.

Country.

10	Estonia and Florida (U. S. A.).
11	Dominican Republic
12	Great Britain, Queensland, China, Denmark, Italy, New Zealand, Salvador, Siam, Spain, 4 Countries of Switzerland, North Carolina, Mississippi and Tennessee (U. S. A.), and Uruguay.

Age of Consent.

Country.

- 13 France, Japan, Jugo-Slavia or Kingdom of Serbs, Croats and Slaves—Boamea, Hergovina and territory formerly Servian and India (for husbands).
- 14 India (for others), Austria, Bohemia, Moravia and Silesia, Latvia, Luxemburg, Poland, Egypt, Germany, Roumania, 9 Cantons in Switzerland, and (in U. S. A.).

Age of puberty. 5 counties in Switzerland.

Book of life, by Upton Sinclair, Volume II, Love and Society, Chapter XL, Early Marriage.

(Discusses love marriages, how they can be made and the duty of parents in respect to them.)

I have shown how economic forces in our society make for later and later marriage; and at the present time economic forces are so overwhelming that all other forces are hardly worth mentioning in comparison. You are, let us say, the mother of a boy of eighteen, and you have what you call "common sense", meaning thereby a grasp of the money facts of life. If your darling boy of eighteen should come to you with a grave face and announce, "Mother dear, I have met the girl I love and we have decided that we want to get married" you would consider that the most absurd thing you had ever heard in all your born days, and you would tell the lad that he was a baby, and to run along and play. If he persisted in his crazy notion you and your husband and all the brothers and sisters and relative and friends both of the boy and the girl would set to work, by scolding and ridiculing to make life a misery for them and ninety-nine times out of a hundred you would break down the young couple's marital intention.

But now, let us try another supposition. Let us suppose that your darling boy of eighteen should come to you again and say "mother dear, some of the boys are going to spend this evening in a brothel, and I have decided to go along." Would you think that was the most absurd thing you had ever heard in all your born days? Or would you answer, "yes, of course my boy; that is what I had in mind when I made you give up the girl you loved"? No, you would not answer that. But here is vital fact—it doesn't matter what you would answer, for you would never have a chance to answer. When a mother's darling wants to get married, he comes and asks his mother's blessing; but never does a mother's darling ask a blessing before he goes with the other boys to a brothel. He just goes. May be he borrows the money from some other fellow, and next day tells you he went to a theatre. Or may be he picks up some poor man's daughter on the street, and takes her into the park, or up on the roof of a tenement. Some such thing he does, to find satisfaction for an instinct which you in your worldly wisdom or your heavenly piety spurn and ridicule.

I do not wish to exaggerate. If you are an exceptionally wise and tactful mother, you may keep the confidence of your boy, and guide him day by day through his temptations and miseries and keep him chaste. But the more you try that, the more apt you will be to come to my conclusion, that late marriage is a crime against the race; the more aware you will be of the danger, either that his boy friends may break him down or that some lewd woman may come to his bedroom in the night-time. Never will you be able to be quite sure that he is not lying to you, because of his shame, and the pain he cannot bear to inflict upon you. Never will you be quite sure that he is not hiding some cruel disease, sneaking off to some quack who takes his money and leaves him worse than before—until finally he shoots off his head, as happened to a nephew of an old and dear friend of mine.

Such is the problem of the mother of a son; and now, what about the mother of a daughter? This seems much simpler; because your daughter

is not generally troubled with sex cravings, and if you teach her the proprieties, and see that she is carefully chaperoned, you may reasonably hope that she will be chaste. But some day you expect that she will marry and then comes your problem. If you are the usual mother you are looking for some one who can maintain her in the state of life to which she is accustomed. If a fairy prince would come along, or a plaster saint, you would be pleased; but failing that, you will take a successful business man, one who has made his way in the world and secured himself a position. But turn back to the figures I gave you a while ago. If this man is thirty years of age, there is at least a fifty-fifty chance that he has had some venereal disease; and while the doctors claim to cure these diseases absolutely we must bear in mind that doctors are human, and sometimes claim more than they perform. Every doctor will admit, if you pin him down, that these diseases burrow deeply into the tissues and many times are supposed to be cured when they are only hidden.

Here is, in a nutshell, the problem of the mother of a daughter. If you marry your daughter at seventeen to a lad of her own age, you have a very good chance of marrying her to a person who is chaste. If you marry her to a man of twenty-five you have perhaps one chance in a hundred. If you marry her to a man of thirty-five, you have perhaps one chance in ten thousand. You may not like these facts; I do not like them myself; but I have learned that facts are none the less facts on that account.

You know the average society bud of eighteen and her attitude to a boy of the same age. She regards him as a child and you think, perhaps, that it is natural for a girl to be interested in men of thirty-five and even forty-five. But I tell you that it is not natural it is simply one of the perversions of pecuniary sex. The girl is interested in such men because all her young life she has been carefully coached for the marriage market; because she is dressed for it, and solemnly brought out, and introduced to other players of this exciting game of marriage for money, with its incredible prizes of automobiles and jewels and palaces full of servants and magic check-books that never grow empty. But suppose that instead of regarding her as a prize in a lottery, you let her grow up naturally, and taught her the truth about herself, both body and mind; suppose that, instead of dressing her in ways deliberately contrived to emphasize her sex, you put her in a simple uniform, and taught her to be honest and straightforward instead of mincing and coy; suppose she played athletic games with boys of her own age, and invited them to home not for jazz dancing and stuffing cake and candy, but for the sharing of good music and literature and art—don't you think that may be this girl might become interested in a lad of her own age and choose him with some understanding of his real self?

You take it for granted that young people should not marry until they can afford it. But stop and consider, is not this a relic of old days? Always it takes time, and deliberate effort of the reason, to adjust our conventions to new facts so face this fact—marriage to-day does not necessarily mean children; it may just mean love. It involves little more expense because the young people need cost no more together than they cost in the separate homes of their parents. If they are children of the poor, they are already taking care of themselves. If they are children of the moderately well off, their parents expect to support them while they are getting an education; and why can they not just as well live together and the parents of each contribute their share? Let the parents of the boy give him, not merely what it costs to keep him at home, but also the sums which otherwise the boy would pay to the brothels. By this argument I do not mean that I favor keeping young people financially dependent upon their parents. My own son is working his own way through college, and I should be glad to see every young man doing the same. All that I am saying is that if parents are going to support their children

while they are getting an education, they might just as well support them married as single, instead of penalising matrimony by making all allowances cease at that point.

I know a certain ardent feminist, who is all for late marriage for women, and abhors my ideas on this subject. She wants women to get a chance to develop their personalities; whereas I want to sacrifice them to the frantic exigencies of the male animal. Young things of seventeen and eighteen have no idea what they are, or what they want from life; the mating impulse is a blind frenzy in them, and they must be taught to control it just as they are taught not to kill when they are angry.

In the first place I point out that young ladies, in colleges and in ballrooms give a lot of time and thought to sex, even though they do not call it by that inelegant term. I very much question whether, if we should apply our wisdom to the task of getting our young people happily mated before we sent them off to college, we should not get a lot more serious study out of them than we now do, with all their "fussing and flirting and dancing".

Second I am willing to make heroic moral efforts where I see any chance of adequate results, but I have examined the facts and definitely made up my mind that it is not worth while in our present stage of culture, to preach to the mass of men the doctrine that they should abstain from sex experience until they are twenty-five or thirty years of age. You may storm at them but they only laugh at you; you may pass laws and try to put them in jail but you only provide a harvest for blackmailers and grafters. As to sacrificing the girl my answer is simply that I believe in love; and in this I think the girl will agree with me, if you will let her; I have never heard any qualified person maintain that it hurts a girl to respond to love at the age of seventeen or eighteen; nor do I think that it hurts a boy, provided that he is taught the virtues of moderation and self restraint. Without these it will hurt him to eat; but that is no argument for starving him. As for the question of his maturity and power to judge, we are able at present to keep him from marrying anybody, so I think we might reasonably hope to keep him from marrying a wanton or a slut. Certainly we might find somebody better than the peroxide blonde he now picks up in front of the moving picture palace.

The question, at what ages we shall advise our young couple to have children, is a separate one, depending upon many circumstances. First, of course they should not have any until they are able financially to maintain them. As to the age at which it is physicians and physiologists. I myself had the idea that the proper age would be when the woman had attained her full stature; but my friend Dr. William J. Robinson sends me some statistics from the Johns Hopkins Hospital Bulletin, which startle me. This publication for January, 1922, gives the results in five hundred childbirths, in which the mother's age was from twelve to sixteen years inclusive. It appears that pregnancy and labor at these ages are no more dangerous than in older women; but on the other hand, the duration of the labor is actually shorter, and the size of the children is not inferior. These facts are so contrary to the general impression that I content myself with calling attention to them, and leave the commenting to be done by feminists and others who oppose themselves to the idea of early marriage.

From Mrs. Bertrand Russell's "Hypatia", pages 58-59.

"But late marriages, from the lack of opportunity for men and the expense of living, cause girls' young bodies to be worn with longing unless they are bold enough to follow our modern Aspasias. This waiting to marry is a real danger to young women's health which conventional, unimaginative people refuse to face. It produces nervous disorders bordering at times on insanity."

Written Statement, dated the 16th August 1926, of Dr. (Mrs.) S. MUTHULAKSHMI REDDI, M.B. & C.M., M.L.C., Vice-President of the Women's Indian Association, Madras, Vice-President of the Women Graduates' Union, Madras, and Secretary to the Indian Ladies' Samaj, Madras, Vice-President of Sri Sarada Ladies' Union, Madras.

1. Yes, there is dissatisfaction.

2. A girl of 13 is not developed both physically and mentally to take on the responsibilities of a marital life.

An unmarried girl of 14 cannot realise the serious consequences of a promiscuous sexual intercourse, nor is she able to defend herself against any improper overtures.

3. Yes, crimes of seduction or rape are frequent here, but I do not possess any statistics.

The amendment of the law made in 1925 has not produced any tangible results.

The measures to make the law effective are—

By abolishing houses of ill-fame and the dedication of girls or women to temples.

Secondly by severely punishing the traffickers—middle men and women.

By the employment of educated and trained women moral police.

and by giving wide publicity of the law through the Gazette, Vernacular Press and propaganda through school teachers, Government Health Officers and through social reform and social service organisations.

4. (1) There is no evidence to show that the amendment of 1925 raising the Age of Consent within marital relation to 13 years has postponed the consummation of marriage to any appreciable degree.

(2) Social legislation has to a certain extent stimulated public opinion. Even though a small section of the Hindu community is convinced of the evils of early consummation still under the present social customs they are not able to carry out their convictions into practice.

(3) It has not succeeded in putting off the marriage beyond 13 years and that is why we demand marriage legislation.

The only alternative is by legislation penalising child marriage below a certain age.

5. The usual age at which the girls attain puberty here varies from 11 to 14.

Yes, it differs. Girls in the rural and the labouring population attain puberty later than the girls of the communities who practise early marriage.

6. (1) Cohabitation is not common before puberty, but a few cases have been brought to my notice.

(2) It is general soon after puberty.

(3) Yes, if the girl is married and has attained puberty.

These cases do not come to courts unless very serious physical injury has been inflicted upon the girl and the medical attendant herself reports the case, but the parties themselves try to hush up the case.

7. There is no religious injunction sanctioning early consummation so far as I know.

8. 'Garbhadan' ceremony is generally performed after the attainment of puberty and just before consummation.

9. I do not consider that the attainment of puberty is a sufficient indication of physical maturity to justify consummation.

In my opinion 18 and over will be the proper age when a girl's physical development may be considered to be enough to justify such consummation without injury to her own health and that of her progeny.

10. A girl in India will be competent to give an intelligent consent only after the age of 18.

11. During my practice I have found that early cohabitation subjects the girls to frequent abortions and miscarriages and the consequent derangement of the sexual organs, sterility and ill-health. The children of such parents when they survive suffer from chronic ailments with consequent mal-nutrition.

It is the experience of most medical people in this country that children born of early consummation are subject to what is called infantile Cirrhosis of the liver which is mostly a fatal disease. These children of early consummation possessing a low vitality easily fall a prey to the acute infectious diseases such as hooping cough, measles, small-pox, etc., and the surviving ones are puny, weak, anæmic and ill-nourished, the reasons being firstly their low vitality at birth and the total incapacity of the mother to supply the infant with sufficient amount of breast milk.

The age of the girls that come to me for treatment for the above complaints varies from 12 to 16.

12. Certainly early consummation and early maternity are responsible for high maternal and infantile mortality besides affecting the race adversely with regard to their mental and physical development.

13. Public opinion has very much advanced since the amendment of the law in 1925 and the demand for legislation is general.

14. The parents of the girl and other women are against early consummation; but the mothers-in-law favour early consummation as they expect the daughters-in-law to take up the drudgery of the household.

15. Difficulties have been experienced.

The measures to remove or minimise these difficulties are by requiring every individual to possess and produce a certificate from the birth Registrar and also by raising the Age of Consent to at least 16.

16. It is not easy to estimate the correct age of a girl between 12 and 14. Usually signs of puberty appear after 13; after 14 signs may not be so pronounced; and after 16 except a small percentage of cases we can safely say that the girl is developed and fit for leading a marital life.

17. Yes, extra-marital and marital offences should be separated.

Within marital relation the punishment must necessarily be less severe as the husband will have to suffer the consequences of injury done to his wife.

18. No difference in procedure of the trials for the two cases of offences.

19. Establish Vigilance associations and refer to the Panchayat systems in villages wherever they are.

20. In my opinion legislation fixing the minimum age of marriage is the only effective and sure remedy. As polygamy is allowed in Hindu community, when the parents of the girls desire to postpone their consummation in the interest of their health, the husband and his party threaten the parents of the girl with a second marriage and the consequent desertion of the first wife. Such marriages have taken place within my knowledge in the city of Madras.

I fully endorse every word of Rai Sahib Harbilas Sarda quoted below :—

"The Hindu child marriage bill, if passed, will have a real and effective protection to girls, which the Age of Consent does not do. That law is a sort of flank attack on the social and physical evil. I might say the crime of child marriage. The law of the Age of Consent, so far as marital relations are concerned, is a dead letter, and has done little practical good except the slight educative effect which it has had on certain classes of people. The

law regarding the Age of Consent has been in existence a pretty long time, but the last Census Report says :

' There is little evidence in the Census figures to suggest that the practice of infant marriage is dying out.'

This is in consonance with the educated public opinion.

21. The progress of social reform by means of education and social propaganda being very slow, legislation for the prevention of child marriage is the only effective course open to us.

Oral Evidence of Dr. (Mrs.) S. MUTHULAKSHMI REDDI, M.B. & C.M., M.L.C., Vice-President of the Women's Indian Association, Madras, Vice-President of the Women Graduates' Union, Madras, and Secretary to the Indian Ladies' Samaj, Madras, Vice-President of Sri Sarda Ladies' Union, 6, Rundalls Road, Vepery, Madras.

(Allahabad, 5th January, 1929.)

Chairman: This opinion that you have sent us, may I take it to be your personal opinion or is it be on behalf of any association?

A. I am connected with many women associations. Of course we all share more or less the same view, but this I have sent in my personal capacity. I am also on the Executive Committees of the following associations :—

- (1) The Vigilance Association,
- (2) The Madras Society for the protection of children,
- (3) The Madras Branch of the British Social Hygiene Council,
- (4) The Madras Presidency Maternity and Child Welfare Association,
- (5) The Madras Sevasadan,
- (6) The Children's Aid Society,
- (7) The Madras Muslim Ladies' Association,
- (8) Vidhya Vivah Satrayat Sabha.

I am also the Secretary to the Indian Ladies' Samaj or society for the protection of minor Devadasi girls.

Q. How long have you been practising as a doctor?

A. I am a private practitioner in Madras and I have been practising as such for the last sixteen years.

Q. Have you had anything to do with the ladies in cities only or in the villages also?

A. Of course, I move mostly with the women population of the Madras town and occasionally I used to be called to attend confinement cases outside the municipal limit.

Q. Amongst which class of people does your practice run mostly?

A. My practice is mostly among the higher and middle classes because in Madras we have got plenty of maternity hospitals and the poor classes have ready access there but no doubt sometimes these people too call me to attend.

Q. Your written evidence shows that you don't want so much the Age of Consent as the fixing of the minimum age of marriage?

A. Yes.

Q. What age would you recommend for fixing the minimum age of marriage for girls?

A. I have already suggested 16 for girls and 21 for boys, and it was widely supported by the Council members in Madras.

Q. What age would you suggest as a compromise with the prevalent orthodox opinion?

A. The orthodox opinion may not agree to any legislation, but then I would fix 14.

Q. What age do you think should be fixed in extra-marital cases for the Age of Consent?

A. I have already suggested 18 as the minimum but I would rather go above 18.

Q. Why do you make a distinction between within marriage and outside marriage?

A. In outside marriage the girl is doomed for ever and she may not have a chance of marriage after the illicit intercourse. Moreover she cannot judge the consequences of her act and that is why I have suggested 18 for outside marriage.

Q. But I still fail to see why you make a distinction between the two.

A. Inside marriage the husband has the responsibility and he too will have to undergo the consequences and then there is no question of another marriage for the girl, but in the case of outside marriage the act means that the girl will never get a chance of marrying, she will be denied home life by reason of the stigma moreover the man who resorts to illicit intercourse might have been infected with diseases and we have had many cases where the girls thus got infected with very serious diseases.

Q. But this applies to 16 as well as to 18 and even to 20. The defence in each case is the same. The psychological reasons are the same except for the moral delinquency. Why do you therefore make a distinction between the two?

A. Because if the legislation is going to be 14 and then surely after the marriage the husband may not wait till 18 and that is why I have suggested 16.

Q. I will tell you one of the reasons that is stated to be against 18. Some witnesses have said that prostitute girls over 16 may decoy the young men.

A. We have not had any cases of that nature. I am connected with the Rescue Association and no case of that type has come to our knowledge.

Q. How will it come to your knowledge? The man never comes to your rescue. An advanced girl beyond 16 may be an aggressor.

A. You may pass a law to prevent it but so far as I know under the existing social conditions the girls don't go and solicit and they will be only in their places; I think the boy is the culprit and not the girl, because unless the boys go and visit the houses of such girls there is no chance of the girls going to solicit the boys. This will not happen under the existing social conditions.

Q. Did you move a resolution in the Madras Council, recommending a minimum age for marriage?

A. Yes. On the 27th March 1928 my resolution was moved which runs as follows: "This Council recommends to the Government that they may be pleased to communicate to the Government of India that in the opinion of this Council legislation raising the marriageable age of boys and girls to at least 21 and 16, respectively, is necessary", and it was passed in the Madras Council *non con.*

Q. I want to ask you one more question. Don't you know that there is a strong amount of orthodox opinion with regard to this question, in the Madras Presidency?

A. That is in the city of Kumbakonam and Tanjore but not in Madras.

Q. Are there not many orthodox Brahmins in Madras?

A. There are a few but not many.

Q. Would you not admit that there are more orthodox people even in Madras than the progressive people?

A. I don't think so. All Iyers are not orthodox nor are all Iyengars orthodox. There are a few amongst them.

Q. That may be so. But are you not prepared to admit that even in Madras there are a number of orthodox people?

A. No. As a matter of fact all the women come from the Brahmin community.

Q. How many women come to your association?

A. We have some ten thousand women who come for the conference. They come from the Brahmin community. Surely the wife represents the views of the husband and the women education is so advanced. From that I can say that the majority of them are not orthodox. Most of the members in the associations with which I am connected are Brahmins and surely the wives also represent the views of their husbands otherwise they will not send them to such meetings.

Q. Can you tell us any means by which we can leave those people who want early marriage to have it, but effectually prevent consummation till a girl has completed 16?

A. I cannot think of any measure excepting fixing an age for marriage.

Q. Can you suggest any means by which the ceremonials may be gone through and yet early maternity and early consummation of marriage before a girl is 16 can be effectually put a stop to?

A. I don't think it is possible to reconcile the two views.

Dr. Beedon: You say that early cohabitation subjects the girls to frequent abortions and miscarriages. Do you think that apart from pregnancy there is any particular harm resulting from early cohabitation?

A. She gets nervous trouble. In one case, the girl could not sleep, could not walk and then she got run down in health.

Q. What was the age of the girl?

A. This girl had a child, then of course she got very weak and she developed nervous troubles, sleeplessness, dyspepsia and other things.

Q. We were told that early consummation is in itself not harmful but that we should prevent early maternity. What is your opinion about this?

A. Even if you prevent early maternity, which is not the only evil result still early consummation, as I told you affects the nerves and the mental outlook and the girl becomes quite unfit to enjoy such freedom as other girls do.

Q. Have you met cases in which there has been definite injury to the private parts as a result of early consummation?

A. I have seen such cases especially amongst girls who are below 13. I have come across cases of hemorrhage.

Q. How many such cases have you come across?

A. I remember one case where the girl couldn't pass urine and she refused to go to her husband's house because of the extreme pain.

Q. What was the girl's age?

A. This happened when the girl did not attain her age, and was only 13. The husband was a big man and he wanted to take his wife and I advised him not to take her because she was not developed but he didn't listen to me. I have come across another case where the husband was a Collector and the girl was a second wife to him. The man had a number of children by his first wife, and still he insisted upon keeping his girl wife who hadn't attained her age. Her parents came to me and cried about this.

Q. Do you think that such cases are common?

A. These cases are common especially in the case of aged men marrying a second time and in the case of widowers also, where the girls have to look after their children also. I know also another case. The girl was aged 11, she was the daughter of a shaetri, she was not developed, had repeated abor-

tions and died last year. The husband was an educated man. If I were to describe to you my experiences of some of these cases it will bring tears of blood.

Q. Do you mean to say that all the children lose vitality?

A. They are infected with diseases. If you take a certain number of children of immature mothers, you can see that their first child is all right and that is the law of nature; but you will note that these young mothers have no milk and the milk has run short because a woman at 13 cannot be expected to nurse her child and the baby is fed upon other things, and these children born of early consummation are subject to what is called infantile Cirrhosis of the liver and such cases are common amongst the Brahmin children.

Q. Is it your experience that these young mothers do have milk only for three or four months for the first time which runs short afterwards and then they have resort to all these starchy food?

A. I know one case where I had to go and attend. The father is a very big official. The girl has been losing one child after another and now she has got a third baby. There is no milk at all and the child is fed purely on artificial food.

Q. What is the age of this girl?

A. She is only 25 and they said she developed intense anæmia and she died.

Q. In your experience have you found any serious damage to the soft parts as a result of the early childbirths or do you think they deliver fairly easily?

A. I don't think they deliver fairly easily. I know cases where there was delayed labour and the labour pains set in and went on for three days. They often collapsed because of damage to the parts. In the villages where the medical aid is not had, they have generally fistula.

Q. Do you think that fistula is common in these young mothers?

A. Fistula is common in these young mothers on account of delayed labour. It is very common in the mofussil hospitals.

Mrs. Nehru: In your travels have you found a general feeling of dissatisfaction amongst the women as regards the Age of Consent?

A. Yes

Q. I am asking you not only about Madras but all over India.

A. I will tell you my own experiences. I went to Rajahmundry one morning. In the evening a meeting was convened of ladies numbering about 200 to thank me for the resolution that was passed in the Madras Council. I went to Burma and there are our Indian ladies. They welcomed me when I was on this Educational Committee. They gave me a welcome address stating that I am doing a great thing for the good of the women. I went to Madras and they gave me an address. The literacy may be slow but the awakening amongst the women is spreading throughout India. When the Devadasi Bill was passed in the Madras Council I had 25 women associations supporting me. So our women know the defect and they do want to remedy these defects.

Q. What is your experience of the Bengal women?

A. Of course in Bengal the women don't come out owing to the purdah system but I have visited many schools in Bengal and social service centres, and they all want to remedy these evils and they appreciated my measure. They do want a change in the law. So far as I am aware the womanhood of India demands it and a very few women might have been set up by the interested men.

Q. Do you find that young girls feel the restraint of early marriage very much?

A. They do feel it and they do complain of it to me.

Q. Do you think that they have a resentment against the present system of marriage?

A. They say that it is their fate. Of course ignorant girls do not know that it is remediable and so they submit to each and every thing.

Q. Do you mean to say that all those who study in the schools do not want to marry early?

A. Yes. They don't want to marry before they are 16. They don't want that their studies should be interfered with. I know a family in Bengal where the girl is stated never to have gone to her husband's house and never wants to go to her husband's house until she finishes her matriculation examination.

Q. Do you think that if it is not possible to have a marriage legislation, the Age of Consent law can be made effective in any way?

A. I won't hope much from the Age of Consent law. As it is, it is being violated.

Q. Can you suggest any measures to make this law effective?

A. So long as we have the system of polygamy nothing could be made effective, because when the man comes out from the prison, he can marry a second wife and the first wife will be ruined.

Q. Supposing the punishment is reduced and no imprisonment is given for those offences except in cases of very serious injury to the girl, then would the Age of Consent law work well?

A. I will, however, have it as a second best thing. I am for legislation of marriage.

Q. As a second best thing do you think it will be of any good at all or would you rather reject it?

A. No? I will not reject it but I will have it as the second best thing.

Q. Under those conditions what punishment will you suggest for the offender?

A. I would impose a fine and below 12 it would be very severe.

Q. Would you allow the law to remain as it is now as regards punishment below 12 or would you modify it?

A. I would allow it to remain as it is. From 12 to 16 I would suggest a fine, and I will disable a man from standing for elections for five years.

Q. In that case, if you simply impose a fine, don't you think that the offence will be repeated? Would you like to take a security bond from him to separate his wife upto the prescribed age?

A. Yes.

Q. Don't you think that if the bond is broken there should be a fresh penalty?

A. Yes.

Q. In case the bond is broken, for the second offence what punishment would you suggest?

A. The trouble is that on account of our social conditions the marriages cannot be broken. Her only salvation is in her husband.

Q. Even for second offence will you have fine only and nothing else?

A. Yes, or else it will result in the ill-treatment by the husband, and that is why I am asking for a marriage legislation.

Q. Whom do you think should be given the right of complaint because you say the wife and her parents will not complain?

A. I think that what is done now should continue.

Q. Do you think that if the right of complaint is given to social reform associations or if special committees are appointed for bringing into court these cases, they will be able to work?

A. This is such a delicate subject. This is an affair between a husband and a wife. How to know that the law is broken but in case of marriage, everyone knows it because marriage is not done as a secret thing. Unless the

parents of the girl complain, there is no chance for the third party to come in and know the facts.

Q. Do you think that if such committees are appointed and they make it their business to find out cases even though they are not able to detect every case, it will act as a deterrent for others?

A. Yes.

Q. You know that some times although the girl or her parents want to make a complaint, they have not the courage to do it because they are afraid of the husband or the husband's people but if such special committees are appointed the aggrieved party can privately supply the information to those who can take up the matter. Don't you think that if things are done in that way, unpleasantness will be saved and the purpose will also be served?

Q. How to prove it unless the offending party goes to the court and gives the facts?

Q. In cases of pregnancy no proof is required?

A. Yes. If you say that pregnancy cases are brought to light, they may resort to abortions and evade pregnancy.

Q. You have suggested the employment of trained women police for this purpose. Do you think that it is possible to get them for this purpose?

A. We are having now our health visitors and they visit every home and if you give them special training, they will do this work. In England they have got the women police. They are in the grade of Inspectors. The same system can be introduced here also.

Mr. Mitra: In one of your answers to Mrs. Nehru's questions you said that women are set up by interested persons. What do you mean by "interested persons"?

A. I mean by "interested persons" persons who are interested in preventing the legislation.

Q. Are such persons interested against any social legislation because of their religious notion?

A. They have a mistaken religious notion. Some orthodox people say that it has the sanction of the smritis and others say that there is nothing in the religion to say that a girl should be given in marriage at 8 or 9. That is how one scholar pandit Mahadeva Shastri translated the slokhas from the Vedas. He also translated some of the slokhas from the Vedas to say that even in Vedic times marriages took place after the girls had attained maturity. One section of the people believe in this and the other believes in other things.

Q. In paragraph 7 you have said that there is no religious injunction sanctioning early consummation so far as you know? Do you admit this fact?

A. I believe in the version of Mahadeva Sastri and I have interpreted my religion in this way that it has not sanctioned early marriage, or early consummation.

Q. But shall I draw your attention to the fact that there are people who believe that there is a religious injunction sanctioning consummation of marriage soon after puberty?

A. Many people believe that. But it is so only amongst those people who practise early marriage. The Brahmins and the Vaishyas alone practice early marriage and not the other large communities.

Q. What I say is this. There are texts and from our evidence in Madras we find that those Brahmins though they celebrate their marriages early, don't consummate the marriages before the girls attain puberty or even years after puberty. What is your experience about this?

A. There are cases where the husband is very sensible and when both the parties are enlightened, they sometimes postpone the consummation of marriage but many cases I have seen, where the parents of the boy have come to me and have asked me to prevail upon the parents of the girl to arrange to consummate the marriage soon after puberty.

Q. So will it be a fact if it is said that amongst the Brahmins out of 100 cases in 99 cases consummation of marriage takes place soon after puberty?

A. I won't say that. Very often it takes place soon after puberty. I have got a memorandum submitted to me by the Brahmin Women's Association of Triplicane saying that "as soon as a girl attains her age, the boys' parents send a warrant to send the girl to their house at once otherwise he threatens to marry a second wife" and so on. They also further say that such cases do occur but are not allowed to become public. To keep the boy under control the girl is sent away to the husband's house even before she attains puberty. Of course sending girls before puberty is not very common but the parents asking the girls to be sent soon after puberty is very common, and when the boys and the girls are in the same houses invariably they become wives and husbands.

Q. I wish to draw your particular attention to this fact because there is a large amount of evidence from Brahmin witnesses who say that they specially take care that consummation never takes place soon after puberty.

Q. May I know who are the witnesses?

A. The orthodox Brahmins have given evidence like that. They all said that though the marriages are celebrated earlier, consummation never takes place soon after puberty.

A. If that is possible we can say both ways. As a medical woman I can give you my explanation. I have come across cases where as soon as the girls attain puberty, the girls' fathers-in-law people demand the girls to be sent to their homes at once and I know a case where the father of the girl came to me and asked from me a certificate saying that the girl is not in a fit condition to be sent to her husband's house, but the boys parents under some lame excuse or other get over the girls to their houses.

Q. May we take it from you that in the generality of cases the consummation of marriage is postponed for a few years after puberty?

A. No, it is not so in every case. The memorandum which I have got here represents the orthodox opinion of the Triplicane Indian Women's Association.

Q. In extremely hard cases are you for divorce laws amongst the Hindus also?

A. So far as I know we the Hindus have no divorce laws.

Q. Do you want a divorce law by legislation?

A. I know cases where the husbands have gone to Europe and other places returning with English wives. I do not find any injustice if you enact a divorce law.

Q. Is it a fact that in cases of first childbirth, the delivery is easier before 18 or 20 than it is after that?

A. That has not been my experience.

Q. People say that there is greater elasticity of the parts during this period. What is your experience?

A. Perhaps that is the layman's opinion. No doubt if a woman is 30 or more, we do say that the parts become rigid but not before 30.

Mr. Shah Nawaz: Please tell us whether your views are shared generally by the several women's associations of which you are the Vice-President?

A. Yes. When the questionnaire came, we all sat together and we had a joint consultation and then arrived at this view.

Q. Do we understand that you discussed this subject in the Associations?

A. Yes.

Q. Have you passed some resolutions?

A. We have been passing many resolutions. Of course the women's awakening regarding this had come long before, and even before our women got into the Councils or into the Municipalities. For the last 14 years we have been agitating and on the last occasion when the Age of Consent Bill

was opposed we found fault with the Government, that they have not started a measure of this type earlier.

Q. Do you honestly believe that women have been so far the victims of social evils of early marriage and early consummation?

A. Yes.

Q. Do you blame men for this?

A. Some times I would blame them because I have very often advised the husbands in the interests of the wives' health to exercise some sort of control. I have often advised boys to observe brahmacharrya. In such cases I would rather blame the men. But as for the marriages themselves which are done under the pretext of custom and the sanction of religion, I will not blame the boys.

Q. You say in your statement that there are cases in which pre-puberty married girls are consummated. Is the number very large?

A. I won't say it is very large.

Q. Is it considerable?

A. In our parts it is inconsiderable.

Q. Do you think that female education is one way to prevent early marriage and early consummation?

A. Surely education will cure many evils but it will take a long time to educate the women because we have not educated every man in the country. Just consider how many years will it take to educate the women in Bengal and other purdah communities?

Q. Please tell us who should in case of breach of the marriage law, be the prosecutor, in your opinion?

A. You can entrust it to any committee or recognized association. Any association may be authorized to do this work and you may authorize the women associations or vigilance societies or even the District Boards or the panchayat people or the municipal chairman or the District Board President to do this work.

Q. We are told that girls at the age of 14 are desirous to be married. Please tell us whether this is a fact or not?

A. I am sure no woman would have made such a statement and I would strongly resent it.

Q. But what about the poor girls who work in the field. If they are not married before 14, do you think that they will keep straight?

A. The poor girls even now are not married.

Q. Are you of opinion that these poor girls will keep straight if they are not married before 14?

A. Surely. I don't see any reason why you presume otherwise.

Mr. Bhargava: Is there any social ostracism if there is a late marriage?

A. Sir Sadashiva Aiyer was not ex-communicated though he celebrated some late marriages, and many marriages after puberty now take place.

Q. Do you think that there is some social pressure brought upon those people who marry their girls young?

A. It is their fear and so they naturally feel that their girls should be married very early.

Q. If according to you people are educated and the ladies are very much advanced why is this state of affairs prevalent?

A. If everybody had become advanced enough to feel that the marriages should be postponed, we would not have asked for a legislation. It is not that all the women are advanced.

Q. Do you mean to say that 70 or 80 per cent of the women are in favour of a legislation?

A. I would not go by percentage. Even the women in the villages welcome this legislation. They can seek shelter if a law is passed.

Q. Then I take it that the feelings of these ladies are not advanced, otherwise there will be no social pressure.

A. There is always an advanced section and an ignorant section. Even amongst the women there is an advanced section and an ignorant section. Everybody recognize the evils but they haven't got so much courage as to brave the opinion of the majority of their fellow people. That is why we want a legislation.

Q. Amongst the Brahmmins can you give me the percentage of people that oppose the legislation?

A. No, I cannot give you the figure. I know more than half of them are for the legislation.

Q. Have you had any occasion to address the Brahmmin ladies in the rural areas?

A. I didn't go but some of our ladies addressed meetings.

Q. Supposing there is no marriage law and there is only the Age of Consent law, do you not think that this celebration of *garbhadan* will also disappear? If the girl is below the prescribed age then the celebration of *garbhadan* will be evidence of consummation before the prescribed age. Is it not disappearing now?

A. If the celebration of *garbhadan* will be treated as evidence of consummation, then they wouldn't make publicity of it.

Q. So are you of opinion that this celebration of *garbhadan* will disappear in course of time?

A. Yes.

Q. Do you also apprehend that abortions may increase?

A. Yes.

Q. Now suppose there is a law like this that whenever the husband and wife are together, the law would presume that sexual intercourse has taken place, how would it work?

A. It will be a big factor because nobody can know this except the husband and his people.

Q. Would the difficulty to prove the act be obviated if the law presumes that consummation has taken place whenever the husband and wife come together.

A. The difficulty is that once they get married, the girl and the husband have to go to each other's house very often and we cannot prevent them from doing that.

Q. So according to you may I take it that there is no remedy for these evils except a marriage legislation?

A. Yes.

Q. Is it not a fact that mothers insist upon the fathers to celebrate the marriage as early as possible?

A. I think it is the father that is responsible for this and not the mother. If the father will say 'no' the mother will not raise her voice over it and our women are very submissive and it is always the man that rules and not the woman.

Q. Refer to your reply to Q. No. 14. Whatever the reason may be, it is the mothers from whom the real motive power for early marriage comes in. Is it not so?

A. I say that the mother-in-law may need the daughter-in-law with a good motive. It might be that she expects her daughter-in-law to take up the drudgery of the household because she has been treated in the same way by her mother-in-law and she might go upon the same tradition. But I expect men to have a wider outlook of life with their B.A. and M.A. degrees. It is the men who know much about other countries and the ladies are shut out in their houses and I will never excuse the gentlemen.

Mr. Yakub: What should be the proper age for marriage for a boy?

A. I have suggested 18 but my personal opinion is that I would go to 21. I would even go to 25 because the boy has to look after many things in life. He has to educate himself, and he has to bear the burden of the family and so on.

Q. Don't you think that if boys are married so late as 22 or 25 there will be a great danger of their becoming immoral when you know that the world is going now-a-days very badly?

A. That is why I have suggested 18 for legislation, but even married boys go wrong.

Q. Don't you think that very few married boys go wrong?

A. I have fixed 18 for legislation but my ideal is 21.

Q. What should be the marriage age for girls?

A. I have suggested 14 in my bill but in my resolution.

Q. What age would you propose now?

A. For my part, I would suggest 16. Some times I can say that there should be an equal age.

Q. If there is a marriage law and if you give the right of complaint to everybody, don't you think that there will be many frivolous complaints on account of personal enmity and personal prejudice? Can you suggest any methods to prevent such frivolous complaints?

A. Certainly we could do that. The recognised associations can do the work. Sometimes the health officers may be asked to report such cases, and there is the health officer in every district and you can ask the responsible people like the municipal chairmen to report such cases.

Q. Will you give the power of complaint to individuals?

A. Unless he is a well known person and he has already established his reputation, I will not give any individual the right of complaint.

Q. Don't you think that some preliminary enquiry should be made before taking the necessary proceedings against the accused?

A. I suggest that people connected with public bodies will do this work.

Q. Don't you think that these cases should be tried in matrimonial courts consisting of a magistrate and two non-officials to be associated as honorary co-judges or honorary co-magistrates chosen from amongst the prominent people?

A. Yes.

Q. Would you prefer the trial of these cases in matrimonial courts rather than in ordinary courts?

A. If such courts could be constituted it is well and good. But what I say is that this committee on that account should not postpone any legislation.

Q. For infringement of the marriage law, would you punish the parents?

A. I would not punish the boy if he is a minor, and the parents may be made responsible.

Q. Upto what age would you exempt the boys from punishment?

A. Upto the age of majority.

Q. Would you punish the girl also?

A. She is never a culprit.

Q. In the case of punishment to the parents, will you punish the mother also or only the father?

A. I will not punish the mother as she has no share in the property.

Q. Don't you see that if the mother resists, the marriage can be stopped?

A. She has neither the right to resist nor she has the capacity to resist under the existing conditions.

Q. Is it not a fact that old ladies in the houses are more anxious than anybody else to perform the marriages of their sons and grandsons and grand daughters in their lifetime?

A. The old ladies do not protest against our boys cropping their heads and so on and so why should they protest against postponement?

Q. In any case are you prepared to have women as culprits?

A. No.

Q. Supposing the boy is young and he has no father and only the mother, then will you punish the mother?

A. Yes.

Q. Should she be awarded the same punishment as the father is awarded?

A. Yes.

Mr. Kanhaiya Lal: Supposing we have a law fixing an age for marriage and also a law fixing an age for consummation, would you advocate a system of registration of marriages, i.e., reports of marriages being made to some prescribed authority giving the names of the marrying parties and their ages, etc., so that we might know where the law has been contravened?

A. Yes.

Q. It has been further suggested, that in marital cases one might allow the cases to be compounded with the sanction of the Magistrate or the Court in suitable cases so that good relations might be restored between the husband and the wife. Would you recommend such a proposal?

A. Yes, but I would not compound a case under 14.

Written Statements of persons not orally examined.

Written Statement, dated the 29th July 1928, of Mr. C. V. S. AYYAR, K.S.S.A., M. O. Bahadur (Turiyasrami), Honorary Secretary, The All-India Children's Educational Movement, Madras.

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II. "The Age of Consent" (to revert to the subject of your circular).

(6) The ancient and enduring spiritual civilization of India has always laid stress on the physical conditions being put in harmony with the *Atman*. As in such harmony is health of body and mind—the healed condition of which is necessary for the mighty—current of the spirit to flow through a pure body—politic.

(7) "*Brahmacharya*" or "Living in harmony with *Atman*" is essential to begin with for the young of both sexes. It awakens the Inner Fire (of consciousness) "*Chitagni*" without which humanity may not progress in the path of harmonising the visible body with the invisible *Atman* ("*Vyukta-Avruakta Swarupani*"). This Inner Fire (which is a tremendous energy) is not released without self-restraint.

(8) Food, matter, atmosphere, light, colour, sounds, building,—all these influence the body, making it fit or unfit to be a vehicle of the Invisible *Atmic* forces. "Simple living and high thinking" is the motto of this ancient land.

(9) "In simplicity is the strength of a nation; in purity is the strength of character; in self-control is the Essence of Efficient Society".

(10) These are axiomatic truths which no one can gainsay. In a band of *Brahmacharins* (male and female) inspired by unfaltering faith in the Immut-able Laws of Justice and Humanity, and the ancient and enduring spiritual ideal of so harmonising bodily functions with *Atmic* forces, that a mighty current of spirit force may ceaselessly flow through a pure body, is the only hope of true freedom for this *Aryavarta* coming by its own.

(11) When persons employed as High Court Judges misuse their position for openly preaching sensuality and terrorism; and for supporting and encouraging the gambling spirit in the modern civilization, which is smitten by "*bhoga*" (without *roga*), it is hopeless to effect any reform for good, by merely bending the penal provisions of Law, which will be administered by men who have lost faith in the chastening influences of purity and simplicity in every-day-life. The cult of *bhoga* is widely spread and has travelled also to India. This cult of *bhoga*, is the cult of death. What the youth of India want is a cult of *shakti*, of strength, of energy, of manhood and womanhood, that make societies and nations.

(12) The present system of Government with its craze for exploitation and emasculation can do no good to India; and it is now thirty years and more since it became patent; and its limbs so dead as to become cold and stiff, so much so, that it really became "the steel frame" of coffin, for binding the Spirit of Freedom and true progress in India, by Indians following the spirit of their own ancient civilisation.

(13) It follows from a consideration of these premises that "the Age of Consent" as it is, is an outrage on humanity, (Qs. 7 to 11).

(14) The least that can be said that if it is an accepted maxim of Law in India that minority ceases at 18 and 21 for girls and boys respectively; then the intelligent Age of Consent for marriage or sexual intercourse, must be also above that age and not below it. (A. to Q. 10).

(15) The Religious injunction for observing "Brahmachariya" is 21 and 23 years for females and males respectively; when alone their bodies become ripe and fit for exercising the functions of reproduction.

(16) All the hue and cry of "Religion in danger" by whomsoever raised, is due to monopolists crying themselves hoarse for fear of loss of sensual enjoyments, which habit has made them slaves of. The answer to question 12 is "Certainly in the affirmative; to question 14 is in the negative."

(17) As to "public opinion" and "Government action", it is all a mockery and farce (as they both do not exist)—and the true answers to these questions may not be relished by "the powers that be". "Let sleeping dogs lie", is a good maxim to observe in this respect.

Written Statement, dated the 31st July 1928, of Dewan Bahadur R. RAMCHANDRA RAO, C.S.I., Chandra Vilas, Luz Church Road, Mylapore, Madras.

1. Yes, as the ages are too small to fully realise the nature of consent.
2. (i) Advance of public opinion.
- (ii) Immaturity of mental growth at the low ages specified.
4. (3) This is becoming common but on account of public opinion and not on account of the amendment.
5. 12 to 14. Yes, and also according to food.
6. Rarely.
7. Certainly not.
9. No. Medical growth indicates 18 but this will probably be in advance of public opinion.
10. Not less than 18. Women are secluded.
11. This is a very common thing. Early maternity stunts growth of mother and produces weak offspring. Any household will furnish examples.
12. Yes.
- Yes: physical and mental degeneration.
13. There is: probably amongst the educated classes.
14. They oppose: if for no other reason than not losing the company of their daughters.
17. Cannot thus be left to the discretion of courts.
20. The former, as frequently early marriage is solely intended for fixing an eligible match.
21. There is considerable progress: but exceptions which will develop into evil foci of cannot be avoided except by legislation.

Written Statement, dated the 2nd August 1928, of Mr. P. K. SESHADRI AIYANGAR, B.A., B.L., Yakil, Chingleput.

Before I proceed to answer the questions seriatim I wish to premise them by the following general statement so as to clearly indicate what according to me is the right stand point from which to view this subject.

I wish in the first instance to emphasise the position that in the matter of the present inquiry no considerations of what is loosely called "religion in danger" enters into the discussions. As I understand the Hindu religion and especially the Visishtadvaita religion in its widest acceptance of the term it is simply (1) a study and real understanding of "the causeless first cause," the "supreme reality" and in other words the knowledge of "Brahman" and (2) the attempt to reach it. A true rule of conduct has been

prescribed which is called the "Karmakanda" or "The department of works". We have been told in the words of the great teacher Ramanuja, "Hence in order that knowledge may arise evil works have to be got rid of and this is effected by the performance of acts of religious duty not aiming at some immediate result (such as the heavenly world and the like); according to the text "By works of religious duty he discards all evil. Knowledge which is the means of reaching Brahman thus requires the works prescribed for the different ashramas; and hence the systematic inquiry into works (i.e., Purva Mimamsa)—from which we ascertain the nature of the works required and also the transitionness and limitations of the fruits of mere works—forms a necessary antecedent to the systematic inquiry into Brahman".

From the above statement of the position I am unable to see any connection between the questions set down for answer and the so-called want of a religious basis for the suggested change in the law. The questions put to me therefore have to be answered on the accepted principles of morality and national well-being which are in accord with the true view of what is called a "religious life." A religious life in the true acceptance of the term consists of such forms of conduct "where passion is controlled and reason reigns supreme, where there is self-transcendence in the sense of freedom from the narrowness of selfish individuality where we work because we are all co-operators in the divine scheme." I refuse to believe that there is any religious basis for the opposition to the proposed change in the law. This highly strong individualistic conception of life whose only goal is the "fulfilment of the joy of the one supreme" has for its basis the highest ethical conception of regarding this human frame as "Brahmapuram" the abode of the supreme Brahman, heavenly, desirable, in which as a house the lotus flower of the heart resides, in which during sleep the fires of the prana keep watch. Any attempt to keep this Brahmapuram in its purity and glory must therefore be welcomed by all true lovers of religion.

I now give my answers to the questions:—

1. So far as I could see the sections make a distinction between marital and extra-marital offence and the legislature should withdraw the distinction which is illogical and unwise.

4. No. (1) Time was when there was what is called nuptial marriages celebrated to consummate infant marriages. Now that system is going out of use the reason stated for the disuse being that it is indecent to celebrate the occasion. I suspect that such disuse is merely an excuse for the little boys and girls in marital states to be permitted to have cohabitation within the age limit and without being detected.

(2) I doubt very much whether the law as to the Age of Consent is so widely known as desired. The orthodox Social reformers of a decade ago who created and directed public opinion have now ceased to function for the obvious reason that they have no audience—the attention being diverted towards what is called Swaraj. Everywhere the cry of Swaraj as a panacea for all ills has so far drowned the cry of less ambitious public workers in the field of Social Reform.

(3) The raising of the Age of Consent has hardly been of use in putting off marriages beyond 13.

In my opinion the best safeguard against the evil would be to raise the minimum age of marriage of girls to 14, and boys to 18, absolutely prohibit marriages below 14 and 18 to penalise such marriages by refusing to apply the doctrine of *factum valet* to such marriages and to render the persons taking part in such marriages to punishment. It would not be the part of wisdom at all to any further trust to public opinion to correct the error of early marriages. Long years of public agitation have failed to discourage early marriages for the only reason that there has been no sanction behind the agitation. An average Indian fears only the law and the natural tendency of the human mind to wink at age long customs though unreasonable

and unmoral or immoral has its support in the Indian atmosphere as well, in a very great degree.

5. I will put the average age at which girls attain puberty at about 12 to 14. I know of cases where even girls of 11 have attained puberty. I am talking only of the Brahmin community.

6. No—during the last about 15 years.

(2—3) Yes. The unfortunate thing is that these cases do not come to court though evidence is not at all wanting and people are unwilling to come forward to assist in the detection of such crimes.

7. Not at all. I am too devoted a Hindu to scandalise my own religion by imputing to it a mandatory direction as to early marriages and all its attendant.

8. See answer to question 4. It is usually after puberty and generally speaking very soon after puberty.

9. No. I would consider that 14 must be the minimum age of the girl to justify consummation, subject of course to the proviso that at least a year should elapse between the date of attaining puberty and the consummation.

10. Only at or after 14.

12. Yes.

13. Regarding the Age of Consent in marital cases I am aware of the view held by a large section of the public which is in favour of raising the Age of Consent of girls to 14 and to permit marriages only after 14 for girls and 18 for boys.

14. No.

15. Yes. I would suggest registration of births as now obtaining immediately after birth and a further registration after the child attains one year when particulars as to how many years born is the child and the name by which it is called may be given.

16. I do not think so.

17. I strongly deprecate any distinction of any kind being drawn between marital and extra-marital offences. Any offence is an offence whether committed in marital stage or otherwise and one can safely err on the side of making marital offences severer than the others.

18. None whatever.

19. None.

20. In my opinion the legislature should fix the minimum age of marriage at 14 for girls and 18 for boys and thus effectively ensure against all possibilities of misconduct between boys and girls. Any attempt to fix the Age of Consent and leave alone the question of fixing the age of marriage would as stated by me in answer to question 4 defeat its own purpose and become useless.

21. I strongly prefer to rely on the strengthening of the penal law for reasons stated by me in answer to questions No. 4 and 5.

Written Statement, dated the 2nd August 1928, of Mr. V. SESHAPPA SUFFY, Honorary Secretary, People's Association, Bellary, Madras Presidency.

3. Crimes of seduction or rape are very rare owing to superstition and moral sentiment that is prevailing in these parts of the country.

4. Though the amendment of 1925 raising the Age of Consent within the marital state to 13 years has been effective in protecting the married girls against cohabitation with husbands within the prescribed age by taking those steps stated thereinunder, further steps of stimulating public opinion are necessary.

5. In these parts of the country the girls attain puberty usually at 12 and 13. This is due to climatic conditions. This differs in different castes and communities. The girls in higher castes attain puberty earlier than the girls in the lower castes owing to the occupation of life.

6. There is no cohabitation before puberty in any class. There is cohabitation soon after puberty, and before the girl completes 13 years for the people are habituated to the custom from a very long time. None of these go to court because the parties consider it ignominious on their part and reconcile themselves.

7. Early consummation of marriage before or at puberty is due to religious injunctions. There are authorities for this. The penalty for these infringements is met with ostracism.

8. There is Garbhadhan ceremony which usually takes place before the consummation. This ceremony is after puberty and before consummation. This is due to traditional usage.

9. Mere attainment of puberty is not a sufficient indication of physical development to justify consummation of marriage, because due to defects of the constitution and weakness. The physical development could be considered enough to justify such consummation without any harm only after an elapse of one year after puberty and at the age of 14. Then only there is proper scope for the development of each organ.

10. A girl could be competent to give an intelligent consent to cohabitation with a due realisation of consequences only at the age of 18. Earlier to this she could not be competent to gauge the consequences as she has not got scope to conceive the dangers.

11. Cohabitation before puberty or after puberty, but before physical development at the age of 12 and 13 resulted not only in the loss of the child, but physically she was disabled. For months together she was not able to sit, stand or walk freely. This she was able to do with considerable effort.

12. Early consummation and early maternity are greatly responsible for high maternal and infantile mortality, and also in affecting intellectual and physical progress of the people.

13. There has been no further development of opinion since the amendment of the law in 1925.

14. Women in our parts do favour early consummation out of superstitious desire that their progeny is extended and enlarged.

16. The difficulty in determining the age would be materially minimised if the Age of Consent is raised to 14 for the reasons that are obvious.

20. The legislation fixing a minimum age of marriage is more in consonance with the public opinion than the penal legislation in fixing a higher Age of Consent for marital cases, as the latter is offensive to public sentiment and social prestige.

21. I would prefer the progress of social reforms by means of education and social propaganda to penal laws to secure the object in view, for the former tends to enlighten the minds of the public and secures the hearty co-operation of all the classes, and gives colour to the movement.

Written Statement, dated the 3rd August 1928, of Dewan Bahadur M. GOPALSWAMY MUDALIAR, B.A., B.L., High Court Yakil, and President, District Board, Bellary.

1. Yes.

2. There must be an advance on the present law on account of the following circumstances:—

(a) The law of the Age of Consent as it is was passed when the country was in a very backward condition owing to large illiteracy prevailing.

- (b) Owing to contact of the other nations of the world with our country there has been a great awakening among the people to adjust their surroundings in consonance with hygienic principles and scientific theories.
- (c) There has been much mass consciousness that the present marriage law leads to stunted growth and abnormal mortality among infants and mothers, not to speak of early decadence of vigour in men.
- (d) The economic pressure due to the low limits now prescribed, sanctified by the law, apart from the so-called religious sanction, operates as a great hardship on all classes of people, particularly the highest castes and those who are imitating them.

3. I will not say that crimes of seduction or rape in my part of the country that is 'Ceded districts' are frequent. They are however sufficiently numerous. The amendment of the law made in 1925 has not succeeded in preventing or reducing cases of rape outside marital law or the improper seduction of girls for immoral purposes. The amendment proposed that is "under sixteen years of age" will materially diminish such cases if not altogether wiped them out. Public opinion is quite ripe for such an amendment on account of the realisation of the dangers of ignorance and temptations for young girls—especially when it is remembered that prostitution is allowed now to be sanctified by ancient usages, customs and traditions of religion. I think I can speak with some authority on this subject having been a criminal lawyer for 32 years and Public Prosecutor of two districts of Bellary and Anantapur for 7 years till 1923 and continued to be the Public Prosecutor of Bellary District till the end of 1926.

4 (1) No.

(2) It has stimulated public opinion but has not been effective in postponing.

(3) No.

These amendments proposed in the Bill are the only steps which could make effective the protection of married girls against cohabitation with husbands if they are under fourteen. This amendment will also have the effect of postponing the consummation of marriages, may even of the marriages.

5. Girls attain puberty at various ages according to their castes, communities, and classes of society. So far as the 'Ceded districts' are concerned, girls attain their puberty between 12 and 13 among Brahmins, Vysyas, and such other castes or communities whose avocations are mostly sedentary or who are precocious, or who are very impressionable or who are weaklings. In other communities such as Kapus, Kammas, Lingayats, lower orders of society such as Boyas Beshas, Adi Dravadas and others the Age of Puberty is between 15 and 18 as in such classes of society women folk are accustomed to outdoor labour, or hard labour at home. This is the Age of Puberty among them.

6. (1) It is not common though large number of cases do occur.

(2) This is very common especially among the Brahmins, Vysyas and other higher classes of Non-Brahmins who are imitating the two highest castes.

(3) Yes. But generally where the girl has attained puberty.

These cases never come before the court.

7 I am not an expert in Sanskrit lore. But from my studies of Telugu and Kanarese literature, including Puranas, translations of Shastras, I am not aware of any Shastriac or Puranic injunction for the early consummation of marriage and much less of any penalty for its breach. The only authority quoted is that a girl ceases to be a maid after eight years and hence, she must be married before she is eight. If this means an authority for consummation according to the desire of the parents or the husbands or even the girls, it is an abuse and cannot be a natural corollary of the injunction.

8. Yes. Such a ceremony is publicly performed if the consummation is after puberty. It is done 16 days after the attaining of puberty specially in the highest castes and those lower castes who imitate them.

9. No.

At least two years after a girl attains puberty. If unavoidable then unless at least after six months if puberty is attained at the age of 14.

10. At sixteen among illiterate or semi-illiterate classes, fourteen among higher literate castes and classes.

11. Yes.

The answer to the above questions are based on actual observation and experience. The age detailed above where consummation is allowed, mothers die, or infants die or both. In cases of consummation before puberty it has resulted in injuries to the genital organs of both the male and the female.

12. Yes. The main cause is early consummation and early maternity. The contributory causes are general poverty and neglect of sanitary laws.

13. Yes. It is general. There are few ultra orthodox people who are generally antedeluvian in their notions of modern conditions of the world who are opposed to the extension. It is most surprising that every educated man is for the advance even among the highest castes of Brahmins and Vysyas.

14. Yes. That is due to ignorance, timidity and ostracism or at least the fear of the neighbouring kinsmen and castemen.

15. Yes. The affirmative answer to next question.

16. Yes.

17. Yes. In the cases of marital offences, the punishment for intercourse for a girl under 13 shall be two years and in cases under 14 years six months.

18. Yes. In the marital case, the procedure shall be that the whole trial shall be in camera and not open to public.

19. The offence must be non-compoundable. This safeguard is enough for the present.

20. Legislation fixing the minimum age of marriage at fourteen would be certainly more effective than penal legislation fixing a higher Age of Consent for marital cases. But the latter would be more in consonance with public opinion than the former as certain orthodox section seems to imagine that fixing the marriageable age is an inroad on their religious beliefs and customs indirectly the penal legislation is bound to bring about the raising of the marriageable age.

21. Strengthening of the penal law. Because it will probably take decades if not centuries for the progress of social reform as the people are by habit very conservative and this conservatism is further reinforced by the supposed religious sanction. Having been a vakil for 32 years, Chairman of the Bellary Municipal Council for 7 years, and President, District Board, for 6 years, and Public Prosecutor and Government Pleader for 10½ years, I have intimate knowledge of the Ceded Districts. It is generally assumed that it is the Brahmins and Vysyas that are following the present pernicious custom of early marriage. It is surprising that other castes who are not bound down by any religious sanction have been unfortunately following the custom. The non-Brahmins such as Lingayats, Kapus, Kammas and other higher castes in their eagerness to vie with the higher castes have outheroded them. I have come across cases among them where girls of 3 are married and have become widows for life even before attaining puberty. The Lingayats who form the predominant class in this and adjoining district of Anantapur observe this custom. It is only a few Non-Brahmin high caste sects, that do not marry till a late stage and then consummate the marriage. Even the lower castes of artisans, coolies and others are following the example in the hope that they will be treated with respect by their neighbours.

* It is absolutely impossible therefore for social reform to succeed. It is penal legislation and penal legislation alone that can bring salvation to the country.

If the highest castes of Brahmins and Vysyas do not want the reform being afraid of their religion, why should not the bulk, the vast bulk who really form the greatest portion of the population of India be not saved from the dangerous customs now prevailing by means of penal legislation, provision being made to exclude these highest castes from the operation of the Act? In case of these classes and communities this stimulus is very badly wanted. I am sure that the moment the law is amended, and the people become aware of it, then they will hail it and will implicitly follow it.

Written Statement, dated the 3rd August 1928, of Rao Bahadur S. V. NARASIMHA RAO, Kurnool.

1. I cannot say that there is any widespread dissatisfaction with the state of the law as to the Age of Consent as contained in Sections 375 and 376 of the Indian Penal Code. Enlightened public opinion however is not satisfied with the existing order of things.

2. (2) In my opinion an advance on the present law is absolutely necessary to prevent the deterioration of the race, physically, intellectually, and even economically among the Indian communities in which child marriages have for long been in vogue, and also to minimise the chances, to whatever small extent it may be, of immature girls being led astray and consigned to a life of prostitution and shame. The ages of 13 and 14 prescribed under the present law for marital and non-marital states respectively are in my opinion ineffectively low to serve any useful purpose in furtherance of the ends in view. The raising of the Age of Consent by one year from 12 to 13 could not also lead to any practical results as any violation of the rule is rather difficult of strict judicial proof. There would not ordinarily be any noticeable or marked difference in physical features between Indian girls of 12 and 13. Hence I would advocate legislation for making an advance on the present law. The general apathy and indifference of the community at large towards this vital question which affects the position and prestige of our country in the comity of the civilised nations of the world should not deter a progressive Government like that of the British Indian Administration from embarking on legislation which enlightened commonsense should unhesitatingly dictate to every intelligent person as essentially wholesome and helpful to the healthy progress of races and individuals. No question of religious principle or sanction is involved in this matter. The argument of 'religion in danger' so incessantly advanced by our conservative countrymen whenever any Social Legislation is contemplated, would not hold good when legislation in the direction suggested would only put off the age of the girl at which sexual relations either in the marital or non-marital sphere could legally commence. Public opinion alone cannot be relied upon to bring about within any reasonable time wholesome changes in the age-long customs of communities wedded to conservative habits and tendencies. Legislation is imperatively necessary if we feel that the Age of Consent in the marital as well as the non-marital states is ineffectively low at present.

3. Crimes of seduction and rape are not frequent in my part of the country.

4. I do not think the amendment of 1925 raising the Age of Consent to 18 within the marital state has been productive of any of the results specified in this question, so far as I have been able to observe in my part of the country.

In the first place the change in the law is hardly known outside what may be called legal circles. It is only for the last few months on account of the controversy over Mr. Sarda's Bill carried on in the Press people even

outside legal circles have become aware of the change in the law effected in 1925. And the postponement of the marriage beyond 13 or the postponement of the consummation of marriage beyond the prescribed age limit, whenever they occurred, was in most cases due to causes other than the fear of legal consequences.

5. I may say that girls in my part of the country generally attain puberty between 12 and 13. I believe that the usual age for the attainment of puberty varies a little in different castes and classes of society.

6. I do not think cohabitation is common in my part of the country before puberty among any class of people. But soon after puberty, cohabitation takes place in very many cases. And I cannot say such practice is confined to any particular class of people.

None of these cases come to Court.

7. I do not attribute the practice of the early consummation of marriage at puberty to any religious injunction.

8. 'Garbhadan' ceremony is usually performed in my part of the country. It always coincides with the consummation of marriage. It is always performed after the attainment of puberty.

9. I do not consider that the attainment of puberty is a sufficient indication of physical maturity to justify consummation of marriage. In my view a minimum period of two years would be desirable between the attainment of puberty and the consummation so as to ensure the girl's physical development.

10. In India I think a girl would be competent at the age of 16 to give an intelligent consent to cohabitation with a due realisation of consequences.

12. I consider early consummation and early maternity are to a certain extent responsible for high maternal and infantile mortality. I know cases of immature girls who in a few years after consummation became physical wrecks as the result of two or three child-births and who eventually fell a prey to some wasting disease like tuberculosis.

13. I do not think there has been any further development of public opinion in my part of the country in favour of the extension of the Age of Consent since the amendment of law in 1925.

14. I do not think that women in my part of the country are decidedly in favour of early consummation of marriage for their children. In my opinion they hardly ever bestow serious thought upon the consequences of early consummation. They would wish to follow the age-long custom of early consummation as a divine-ordained injunction. If legislation with penal consequences for non-compliance were to be passed raising the Age of Consent to 14 or even 15 in marital state I think women generally would welcome the measure as one tending to the improvement in the health of their children.

15. There must necessarily be difficulties in determining the exact age of girls from 12 to 14.

16. The difficulty or margin of error in determining the age may be reduced or minimised to a considerable extent if the Age of Consent is raised to 14 in the marital state and to 16 outside the marital state.

17. I would certainly separate extra-marital and marital offences into different offences. I would not prescribe imprisonment as a substantive punishment in marital offences where a man has sexual connection with his wife who is not below 13 years of age. On the other hand I would like to prescribe a minimum fine of Rs. 200 for such offences, the maximum of course being left to the discretion of the trying magistrate according to the particular circumstances of the case. I think it desirable to promote social legislation as far as possible without alienating the sympathies of large sections of the community. My suggestions in connection with this aspect of the question are to the following effect:—

Age of Consent should in my view be fixed at 16 years in the non-marital state. The definition of rape in Section 375 of the Indian Penal Code has therefore to be amended accordingly. The exception provided in the

Section, I would retain as it is. Section 376 also may stand as it is. If the proposal to raise the Age of Consent to 14 in the marital state, is to meet with approval a new Section has to be added penalising sexual intercourse by a man with his own wife who is below 14 years but above 13 years and prescribing a sentence of fine of not less than Rs. 200 for such offence.

18. I would make no difference in the procedure of trials for offences within and without the marital state.

20. I do not consider the penal legislation fixing a higher Age of Consent for marital cases would be more effective than legislation fixing the minimum age of marriage. In my view, to secure the protection of immature girls against cohabitation, penal legislation fixing the Age of Consent as well as legislation fixing the minimum age of marriage are both essential. If the marriage of girls is put off till 14, the problem of fixing a reasonable Age of Consent would automatically be solved. Once girls are married at or before 12, it is rather a difficult thing in the present conditions of society to prevent the consummation of marriage at any time after the attainment of puberty by any kind of penal legislation. Penal legislation touching the domestic sphere can rarely be effective enough to bring about a salutary change in the long-established usages of the people. The relationship of husband and wife in Hindu Society is such that offences committed by a man against his wife could rarely see the light of day and much less be established even if they should ever come out.

I believe public opinion in my part of the country might at present prefer legislation for raising the Age of Consent, to legislation fixing the minimum age of marriage. In regard to the age of marriage it is, rightly or wrongly, believed by certain sections of the Hindu community in my part of the country that religion enjoins the performance of marriage for girls before puberty and that the violation of the rule would place the concerned parties outside the pale of their respective castes. But caste restrictions are gradually losing their importance by force of circumstances brought about by the impact of Western Civilisation and influences. Any opposition to fixing the minimum age for marriage now visible in several parts of the Madras Presidency is bound to fade away with the lapse of time.

21. I must prefer to rely on the strengthening of the Penal Law to secure the object in view. It must necessarily take a very long time indeed to secure the object in view through the progress of social reform by means of education and social propaganda. It would not be in the best interests of the community to wait and hope for social reform effecting a radical change in the traditional customs and usages of the people not conducive to progress especially in times ahead when the competitive struggle for existence is bound to be very keen.

Written Statement, dated the 6th August 1928, of Dewan Bahadur GOVINDOSS CHATHOORBHOOJDOSS, Ex-Sheriff of Madras.

1. There is not, in my opinion, much dissatisfaction with the state of the present Law. The Law, as originally stood before the Amendment of 1925 was quite satisfactory. To have raised the Age of Consent to 14 in 1925 was, in my opinion, bad; but now to raise it still further is undesirable and uncalled for. The people have been adjusting themselves of their own accord and in all social matters according to the spirit of the times and the requirements of the age. They have not been stagnant and there has been a gradual advance all round, owing to the influence of environments. Indians, have, for a long time been freely copying Western customs and habits, with the result that the religious precepts and regulations as contained in the old Shastras are not rigorously followed now. There is a general feeling among Indians that the old regulations as contained in the Shastras are not suited to the present day conditions. The Orthodox Communities are consequently dwindling in numbers. Without legislation most

of the social and customs of Indians are being gradually changed in accordance with the times. So, no special and penal legislation, in my opinion, is now necessary in matters social and religious.

2. *Vide* answer to query No. 1.

3. Crimes of seduction or rape are not frequent in this part of the country. Such stray cases as come to light are generally to be found only among lower orders of Society and under unusual circumstances. The amendment of the Law made in 1925 has not succeeded in preventing such stray cases of seduction or rape.

4. (1) The amendment of Law made in 1925 is not known generally to the public at large except to Lawyers and highly educated people. No. Mere postponement of the consummation cannot have the desired effect as a rule, for, in cases where married children are kept in the same house as it does happen in certain cases, it is impossible to successfully prevent cohabitation of the husband with the child-wife who is matured, while as a matter of fact even children below the age of 13 whether they have attained puberty or not, are tempted to cohabit with the opposite sex owing to natural craving which man-made Law can never prevent. It is impossible to keep these children under close watch during all the 24 hours of the day. No one can effectively prevent such children from giving consent. No artificial barrier of Law can effect the desired end. If, however, the married children (husband and wife) are kept in different places till their physique is sufficiently developed and marriage is consummated afterwards, the desired end may be achieved.

(2) Public opinion is no doubt progressing in the right direction.

(3) It is not possible to put off marriages in all cases beyond 13. It is done in some cases not because of the fear of the Law of 1925 but because of the creation of better public opinion gradually. If married girls are to be protected against cohabitation before she is 13, she must be kept away from the reach of her husband. Even if effect is given to this by amendment of Law, it will work hardship in some cases, for example, when the parents of the matured girls happen to be too poor to support and maintain the matured girls of 13 and below in their custody, with a view to keep the matured girls out of the reach of their husband whether he is a child or a youth or grown-up man. It is within the experience of every citizen, male or female, how school children, irrespective of any age, satisfy their passion wherever possible by cohabiting secretly with the children of opposite sex or their own sex. The evil may be minimised only to some extent by Legislation. The only unobjectionable method which I would advocate is by effective propaganda by means of lantern lectures and issuing pamphlets showing the unwholesome effects on the progeny and mothers, of consummation of marriage of child wives before the attainment of proper physical developments.

5. Normally between 13 and 15. This does not differ in different castes or communities, but it depends upon individual constitution and health of particular individuals.

6. (1) Cohabitation before puberty is very uncommon. This is unheard of except when we read in Newspapers of rare instances which come to Court.

(2) Cohabitation is not common soon after puberty, in the generality of cases. Parents usually put off consummation some time after puberty varying from few weeks to months and years on different considerations.

(3) Cohabitation before the girl completes 13 years is most uncommon. Parents generally keep the girls under strict watch and do not allow cohabitation to take place until the girl is sufficiently developed in body and mind when consummation ceremony is performed publicly. None of the cases have come to Court and, in fact, there will be no necessity or possibility for married people to go to Court. There is no one to carry the complaint to the Court. With reference to such rare instances as may happen, the parties will naturally avoid going to Court lest the subject gains undesirable notoriety.

7. There is no religious injunction for consummation of marriage before or after puberty. Religious injunction may exist for sending the girl, who has matured, to her husband's house, so that she may live with him a married life. But this does not mean that when husband and wife live together, they must cohabit. It is not a desirable thing to have a matured daughter at her parent's home for a long time without sending her to her husband's home, unless it be on account of their health. Now-a-days, health is the first and the only consideration and religion comes only last. Such religious injunctions as may exist and which have become unsuitable at the present day have become obsolete and are not followed at present.

8. It is performed among certain communities including Brahmins. It is preceding the actual consummation which is fixed for an auspicious Lagna or period. The "Garbhadhan" ceremony is performed only after the attainment of puberty. The period that is allowed to lapse between the attainment of puberty and consummation varies from a few weeks to months and years according to special circumstances of each case based on physical and Physiological and Economic reasons. There is no hard and fast rule as regards this.

9. This depends upon individual constitution and general condition of health. It depends upon the girl's physical development which weighs foremost in parents' minds. Parents always allow consummation to take place when they consider that the girl is physically fit for it and never before it. No general age-limit can be fixed and it must be left entirely to the parents themselves.

10. Vide my remarks in paragraph 4 above. At 13 and 14 a girl in India will be competent to give an intelligent consent to cohabitation but not with a due realization of consequences. That cannot be before the girl, by education and experience, gains knowledge as to what will be the condition of the creature prematurely born or her own health because of cohabitation before the body is fully developed, especially the internal organs of generation. At or about the time of consummation a girl becomes somewhat acquainted with family life and learns everything about motherhood, etc., at home from her mother and other female relatives or female friends.

11. No doubt there are a few cases. Such stray cases do not generally come to the notice of the public. The child born looks puny and often unhealthy.

12. Early maternity may shatter the constitution and bring about maternal and infantile mortality. But with proper care and advice this can be reduced as much as possible. What is urgently required is effective propaganda and education rather than legislation.

13. There is no further development of public opinion in favour of the extension of the Age of Consent as fixed in 1925. On the other hand, public opinion is that no further extension should be made by legislation and that the previous amendment itself was unnecessary. The general public opinion is that legislature should not interfere in such matters and that the necessary reforms should be required to be achieved by the people themselves without the intervention of the legislature.

14. Women do not favour early consummation of marriage and in no case has consummation before 13 years been favoured.

15. Difficulties must have been experienced in determining the age of girls in connection with offences under Sections 375 and 376, Indian Penal Code. If any doubt or difficulty arises, medical examination and opinions of experienced medical men must be relied on in the absence of birth certificates.

16. I do not think that any difficulty or margin of error will be reduced if the Age of Consent is raised to 14. Raising the Age of Consent by one year will not make any difference and there is not, in fact, much difficulty or margin of error in determining the age in the generality of cases. For the sake of a very few cases in which some difficulty may be felt, it is not advis-

able to resort to legislature for raising the Age of Consent still further on that account.

17. The two offences must be kept separate for obvious reasons. Marital offences must be dealt with more leniently. Extra-marital offences might be dealt with as at present, but the law should be relaxed as much as possible in the case of marital offences. A slight punishment of some fine or with simple imprisonment of a few months will be quite sufficient, to meet the ends of justice in the case of marital offences. When the husband and wife are young and when they live with their parents and the members of the family there is not much scope for marital offence being committed, and such offences, are, in fact, of very rare occurrence. It is enough if the legislature make it a minor offence dealing with it lightly.

18. I will make a difference in the procedure of trials for the two offences. For offences within marital state, the trial must always be in camera, i.e., without giving publicity and the parties must not be subjected to severe cross examination. The feelings of the parties and their disposition towards each other should not be straitened and the matter must be dealt with in a delicate and careful manner so as to ensure the future happiness of husband and wife. Public examination should never be allowed and even cross examination in chambers should be limited and avoided as far as possible as it is undesirable to wash dirty linen in the presence of the general public or even in the presence of a few including the parties, Judge and the Pleaders. The conduct of the Presidency Magistrate, Calcutta, who, in dealing with Mrs. White's case, cut short the cross examination, is highly commendable in the interest of the public morale. The need for avoiding cross examination is even greater in the case of marital offences.

19. No further safeguards, are, in my opinion, required. The law as it stands at present, is quite sufficient.

20. I am not in favour of either. I will never advocate penal legislation in social matters, neither of the alternatives would be in consonance with the public opinion in my part of the country. Public opinion, on the other hand, wants that legislature should not interfere in social and religious matters and penal legislation fixing the minimum age of marriage are both viewed with disfavour and apprehension.

21. I very strongly rely on the progress of the social reform by means of education and social propaganda instead of passing penal law to secure the object in view. The former is more in consonance with the wishes of the people than the latter and the former is less objectionable than the latter. The contention that legislature is one form of propaganda is, in my opinion, unsustainable. Reform and improvement in social and religious matters are possible only gradually and they must be handled delicately and carefully. Social reform by legislature is attended with danger which the State will be well advised to avoid. Education and propaganda are more effective and less harmful than legislation. As much advance has already been made without legislation, it is not desirable to resort to legislation frequently in these days of social reform and progress which will effect necessary adjustments in society, which legislature cannot achieve without offending the susceptibilities of the public who are naturally conservative. The cry for legislation is from only individuals, not communities, as can be seen from the counter-propaganda on the subject.

Written Statement, dated the 6th August 1928, of Mr. S. VARADACHARIAR, Myslapore.

I have no experience of the administration of the Criminal Law; but from what I can claim to know of the general ideas and views of the Brahmin community of Southern India, I may say that a fairly large proportion of them would prefer that the Age of Consent within the marital

should be fixed at 14, while also desiring that in practice consummation should ordinarily take place even some time later. I must, however, add that few of them would like to see the husband sent to prison for breach of such a law. It must be remembered that consideration for the health of the girl is only one of several factors to be taken into account in dealing with a delicate situation. We cannot shut our eyes to the fact that if a young man shows a tendency to waywardness or laxity, his parents and the parents of his wife may justifiably think that the company of his wife may help to steady him; and it would be unfortunate if a corrective of this kind could not be resorted to by them except under the danger of finding the young man or themselves (as abettors) in jail on the ground that the girl is a few weeks or months short of the statutory minimum age. It is one thing to secure the desired result by the education of public opinion and a very different thing to seek to attain it by penal legislation. I have no doubt that of late the general tendency even amongst the Brahmin community in Southern India has been to advance the age of consummation beyond 14 and I may even add that the performance of the ceremony before 14 is now-a-days the exception rather than the rule. The period that has elapsed since the amendment of 1925 is too short to enable me to make any definite statement as to its effectiveness and my impression is that cases of breach thereof within the marital state have never come before the court in this part of the country. It is only natural to expect that nobody interested in the parties would go the length of bringing the matter before the authorities and if a stranger is to move in the matter at all, he will in all probability be actuated by some private grudge. A legislation of the kind proposed does not in these circumstances seem expedient so far as the marital state is concerned. In the alternative I would add that if sexual intercourse with a wife aged between 13 and 14 is to be penalised at all, the punishment should merely be a fine and not imprisonment, so that no avoidable misery may be caused to the family. The theory of 'deterrent punishment' has almost become discredited now and after all, the publicity and disgrace of a criminal proceeding is more than sufficient punishment for any lapses.

The above considerations have no application to the non-marital state and in such cases I would agree that 16 may reasonably be fixed as the Age of Consent.

5, 7, 8, 9 & 10. In this part of the country there is considerable difference amongst different communities as to the age at which girls attain puberty. I have myself known a few instances amongst Brahmins of girls attaining puberty even before 12 but 13 to 14 may at present be ordinarily taken as the period when Brahmin girls attain puberty. There are some injunctions in the Smritis which recommend conjugal intercourse immediately after puberty and some of them declare it a heinous sin for any one to prevent it. But, to the best of my knowledge, these injunctions are not taken literally even by the orthodox people. Amongst the Brahmins, the 'garbhadhana mantra' is as a matter of form recited even on the 5th day of the marriage, but, as is well known, consummation is amongst them a different ceremony and is celebrated long afterwards. Where consummation takes place at a comparatively early age, i.e., soon after puberty, I think it is more often due to reasons of domestic or other inconvenience in the particular case than to any pressure of religious injunction or public opinion. Even orthodox people are quite alive to the fact that a girl does not become fit for conjugal life by the mere appearance of what is commonly referred to as puberty, i.e., menstruation.

It is difficult to state in view of the present state of our girls, the age at which one can safely postulate an intelligent consent from them to cohabitation with a due realization of consequences. In the marital state, conjugal life is taken as a matter of course and at that particular period of their life, girls could hardly be expected to bring much rationality to bear upon a matter of this kind. I decline to believe that an advance of even 3 or 4 years can really make any difference in this respect, especially when one cannot safely assert that even grown up men act in such matters 'with

a due realisation of consequences'. The question must therefore be determined on other considerations. Speaking with reference to the Brahmin community and the growing deterioration of physique among our girls under modern conditions of life, I think that they must complete at least 15 years before it is desirable that they should enter upon conjugal life. But as already stated, it will not logically follow that it is expedient to penalise sexual intercourse between husband and wife before that age.

20—21. My answer to these questions has been indicated in what I have already stated. I am not in favour of penal legislation so far as the marital state is concerned and if it is to be resorted to at all, I think it must be of a comparatively mild type, aiming more at educative value than deterrent effect.

Written Statement, dated the 6th August 1928, of Miss ELEANOR McDUGALL, M.A., D.Litt., Principal, Women's Christian College, Madras.

In reply to your questionnaire No. 42-A. C. C., dated the 23rd July 1929, concerning the Age of Consent, I regret that I have little or no information to give. All the students in this College are when they enter already beyond the age under discussion.

In answer to question (5) however I may state that in our experience the Age of Puberty for girls in South India is not earlier than that normal in England, viz., from the 13th to 15th year.

Written Statement, dated the 10th. August 1928, of Mr. R. VIRA RAGHAYA SARMA, Lecturer, Loyola College, Madras, and Secretary, Hindu Social Reform League, Mungambaukam, Madras.

1. It cannot be said that there is any dissatisfaction.

2. I am of opinion that an advance on the present law should be made. This is necessary from the eugenic, social, and educational points of view. A higher age-limit should be fixed.

3. Crimes of seduction or rape are not frequent here. We hear of such cases occasionally. The amendment of 1925 has not been effective and has not produced tangible effects in preventing cases outside the marital state. The law should be made effective by raising the Age of Consent to 18. Moreover since very few offenders committing rape take the trouble of ascertaining beforehand if their victims are protected by any law, the enactment of the law of Age of Consent should be made known to the public by advertisement and by propaganda work through organisations.

4. It is not possible to say if the amendment of 1925 has been effective in protecting married girls from molestations by their husbands or in postponing marriages. Cases, if any, of cohabitation in marital state before the prescribed age-limit do not come to a court of law. This may be due to either the tendency of the people to hush up such cases, or, to the ignorance of the people of the existing law. I am afraid most husbands have not heard of the amendment of 1925.

Many marriages are put off beyond 13. But I do not think that the postponement of marriage is due to the amendment of 1925 or to any strong public opinion on the matter. No doubt "with the spread of education and increasing contact with western ideals" some people have come to realise the evils of infant marriage. In a few cases, as has been pointed out in the last census report, the spread of education has had some influence, "since parents are often unwilling to withdraw their children from school for their marriage before their education is complete. In a majority of

1. postponement of marriage is the outcome of special economic conditions. Marriage is a very costly and prohibitive affair in this part of the

country, and in these days of economic stress and struggle for existence many parents who cannot afford to give large dowries are obliged to wait.

To make the law effective I would suggest raising the Age of Consent to 18. Also marriages below a certain age should be penalised by a separate measure. I do not pin my faith to public opinion.

5. I may say in general that girls who are married early attain puberty early, between 11 and 13. The young girl is constantly obsessed with ideas of married life and this, as medical opinion has it, lights up an unnatural "erethism" resulting in premature puberty.

Among the classes in which marriages take place late, girls attain puberty from 12—15.

Cinemas and such amenities of town life also have their influence on the Age of Puberty of the girls in the urban areas.

6. (i) Cohabitation is not common before puberty. I have heard of a very few cases of wayward boys having been rescued by being allowed to have cohabitation with their wives who were said to have attained puberty though in reality they had not.

(ii) Yes, cohabitation is common soon after puberty.

(iii) Yes, when early pubescence occurs, cohabitation takes place in some cases when the girls have not completed 13 years.

These cases do not come to Court.

7. I do not think there is any religious injunction. Especially since our texts happen to be differently interpreted to suit the interpreter's fancy, I do not attach any weight to the opinion of a few people who bolster up texts to show that early consummation has the sanction of religion and thus paint our hoary religion in hideous colours.

8. Yes. "Garbhadhan" ceremony is performed here after puberty on the day of consummation of marriage.

9. I do not. Attainment of puberty is not an indication of physical maturity, as our girls attain puberty under abnormal conditions long before they have fully developed physique and the sexual instinct. The processes of reproduction should be delayed until not only the special organs concerned but also the body as a whole shall have attained their full development."

Consummation may be justified after a girl has reached her 18th year.

10. This depends on the education imparted to our girls in eugenics and sexhygiene. A girl of 18 may ordinarily be considered to be competent to give an intelligent consent. We consider girls under 18 to be minors incapable of "entering into a contract relating to property." It is therefore reasonable to maintain that they are incapable of giving a consent to a very serious matter affecting their lives before they reach 18.

12. I do think that early consummation and early maternity are partly responsible for high maternal and infantile mortality. There are of course other causes such as malnutrition and insanitary conditions.

13. Yes, there has been some development of public opinion. Even many orthodox people do not raise their finger of protest against the raising of the Age of Consent.

14. Yes, some women do out of sentiment. A large majority of women are too solicitous of the health of their children to favour early consummation.

15. There should be compulsory registration of births. Otherwise a difficulty is likely to be experienced. Medical evidence as to age cannot solve the difficulty.

16. The margin of error is a minimum surely, if the age is raised to 16 or above.

17. It is better a differentiation is made in the two classes of offences. The punishment should be deterrent in the case of marital offences, if the

future relationship of the married couple is not to be embittered. The punishment, provided in the law, for extra-marital offences is sufficient.

18. I think that the two classes of offences should be tried in camera.

19. One safeguard is perhaps strong public opinion on the matter. I would also suggest that complaints of cases of offence should go through some social organisation or a panchayat.

20. As I have already pointed out, the orthodox section is not opposed to raising the Age of Consent, as it is to the fixing of the minimum marriageable age by legislation. But I believe that to make the law of Age of Consent effective legislation penalizing child marriages is necessary. The latter would go to the very root of the evil sought to be eradicated.

21. Education and social propaganda cannot achieve much. They can appeal only to the good sense of the communities. But that good sense of the communities is such as to drive us to the uttermost depths of despair. To secure the object in view strengthening of the penal law is necessary.

Written Statement, dated the 9th August 1928, of Mr. K. MARKANDEYA SARMA GARU, Editor, Swadharma prakasini " Brindavan " Kilpauk, Madras.

1. The sections, in so far as they apply to cases within the marital tie are not only ineffective but are against the spirit of the Hindu Law and usage. The term 'rape' can never be stretched to comprehend cohabitation which is sanctioned by marriage. State interference in people's matrimonial relations, besides being futile, defeats its own purpose by enhancing misery instead of allaying it. No body except men of the legal profession is aware of the sections. Hence there is no effort on the part of the people to obey the rules. Every Indian who respects the Hindu Dharma will resent such interference with his private affairs, and more so if it touches the females. The Government can never succeed in enforcing the rule.

2. In so far as the sections apply to cases within marital relations, under no circumstances can the present rule be justifiable according to Hindu Law. Both Hindus and Mohammedans are governed by Statute Law to some extent and by their personal law to some extent. This matter belongs to the sphere of our personal Laws. Hence it can never be made the subject of legislation. Popular indifference to rules of Law is the only justification for the existence of such rules.

3. I have not come across any case of seduction or rape in our part of the country. It is impossible to assert that the raising of the Age of Consent to 14 has had any effect. The question presupposes that there were abundant cases of rape before such amendment. What grounds the questioner has to suppose like that, I do not know, unless it is a very poor and unwarranted opinion about the morality of people in India.

The questioner seems to think that many cases of rape are at present escaping beyond reach of the Law and that some immediate measures should be taken. This again is illusory; and therefore no steps are necessary in that direction.

4. No person in India takes stock of the Law on the point for the purpose of consummation of marriage. If any person resolves, on considerations which convince him, to consummate a marriage before the age of 13, he will not be prevented by a contrary rule of Law.

(i) The amendment has not caused such postponement, for the reason that no rule of Law on this subject will ever be obeyed.

(ii) The Indian public do not need the help of the Government in formulating their ideas of morality and conduct. They are governed in their marriages by their Dharma Shastras which are universally accepted among Hindus. There is no need to create public opinion in contravention of the

Shastras, nor it is possible to do so. This matter has become prominent as it affords an easy opportunity for hypocrites and fortune hunters to gain public importance. That is why, in my opinion it is sought to be imposed upon the country. In certain communities such as Brahmins, Vyasis, etc., pre-puberty marriages are compulsory both according to Hindu Law and custom. In other community it depends on such considerations as weigh with the persons concerned. The former communities will not only resent all interference with their religious principles, but will thwart it at all costs. At present the Law as to the Age of Consent, as I have pointed out, is a dead letter. It is neither known, nor followed.

(iii) Should any consummation be postponed beyond 13 it is, again, not because of the Law, but owing to particular circumstances. Even among communities which have post-puberty marriages, numerous cases of early marriages are happening. Cases of consummation of such marriages before 13 are also common.

Hence it is futile from the point of view of the Government to regulate men's conduct in such matters by legislation. From the people's point of view such legislation goes beyond bounds and can be instrumental only in causing mischief. Further among Hindus who are governed by spiritual precepts in their private life, such legislation is *ultra vires*. They have a right to lead such private life as their personal Law directs without mischievous interference. If the Government think that they are conferring happiness on Indian girls, they are mistaken. Discord and misery in Indian households will be the direct result of the enforcement (if successful) of this kind of legislation.

5. It is generally accepted to be between 12 and 13. But there are instances where girls attain puberty much later. There is no marked difference in this respect between the various communities, though it may be said that in the labouring classes girls attain puberty, say, a few months later owing to their greater strength. But even among these cases of early attainment of puberty are quite common.

6. (i) Before puberty cohabitation never takes place in any Hindu community.

(ii) The terms "soon" is a relative term and is therefore too vague for the purpose of an answer.

(iii) There are cases of this sort before 13. The more common cases are after 13. In determining consummation, age is not considered. In some cases it might be necessary to consummate the marriage before 13, the girl being more than ordinarily strong and well-grown. In other cases the function is deferred till a later time for some reasons peculiar to the individual case.

These cases have never come to court. Taking them to court must be revolting to every decent mind.

7. There is no rule of Hindu Law, nor is there any practice to the effect that a marriage must be consummated before puberty. The Dharma Shastras lay down consummation after puberty. Apasthamba, Asvalayana, Baradvaja, Gobila, Jaimini, Medhathidhi, Hiranyakesi, Vykanasa and others are the authorities on the subject.

It is not necessary to explain the reasons that lie behind the injunctions to show that they are binding upon Hindus. Even if given, the reasons cannot be appreciated by Non-Hindus and such Indians as are resolved to oppose the Hindu Dharma.

8. It is invariably performed. "Garbhadhan" ceremony is nothing but consummation itself. I am not able to understand how the two have been conceived to be separate.

It is not proper according to our Dharma and custom to perform the ceremony before the attainment of puberty.

Before the consummation of marriage, three factors are considered. Firstly, the time of puberty, i.e., the star under which the girl attains

puberty. If it is such as to disallow consummation until the expiry of a period laid down in the Shastras, consummation cannot take place, before that time. Secondly, the bodily disposition of the boy and the girl. Thirdly any other circumstances that might advise postponement of consummation.

9. The general rule is that attainment of puberty is a sufficient indication of physical maturity. But every man is endowed with sufficient rational powers, to see when consummation may be advisable. There are cases in which it is postponed to 16 on grounds of health. There are also cases in which it takes place soon after puberty without the least prejudice to health. But in neither case does the parent put the question "what is the age of the girl," unless she is very young indeed. Because, in such matters it is not possible nor advisable to follow a rule of thumb.

It is unwise to lay down a limit like that. Even such legislation is sure to fail to regulate some cases with any benefit. Individual cases will have to be considered.

10. It is absurd to put the question with regard to girls in India. A deliberate intention to insult Indian girls and an ignorance, unpardonable in the questioners, of the nature of Hindu Society and of Hindu womanhood are at the back of the question.

11. Among family women there are no such troubles, because proper precautions are taken.

12. They are not responsible. The real causes are the economic and sanitary condition in India. Owing to the political servility of this country we are not able to utilise our economic resources to our own advantage. These resources are exploited by foreigners. Consequent low standard of living and inefficient sanitary conditions are the only causes. Shallow and ill-informed men who have no knowledge of Indian conditions will think otherwise.

13. The public are happily ignorant of the Law about the Age of Consent, both before 1925 and after the amendment. The few that know it are callously indifferent to it. This matter is taken up by those fortune-hunting men and women who want to gain some sort of prominents.

14. The will of no single person, whether the mother or the father of the girl carries the day. The initiative of any person in these matters is subject to the injunctions and directions laid down in the Shastras, supplemented by considerations of convenience.

15. I disapprove of the rules laid down in the sections in so far as they affect marital relations. In extra-marital cases the oral evidence of the guardians is the best guide in the absence of documentary evidence admissible under the Indian Evidence Act.

16. It is not possible to derive any benefit by making any kind of alterations.

17. I would separate the offences for the purpose of asserting that the marital offences are not crimes and as such, cannot come under the purview of penal legislation. Extra-marital offences may be dealt with like so many others provided for in the Indian Penal Code.

18. The answer to this question is the same as far 17.

19. I have made my position clear with regard to marital offences. The only solution in extra-marital offences is the engagement of a clever counsel.

20. In any matter regarding the sacrament of Hindu marriage, any kind of legislation is futile. This is made clear by the Hon. Mr. A. Y. G. Campbell in his speech in the Madras Legislative Council, dated 27th March 1928.

"We have recently received from the High Court statistics of the number of prosecutions and convictions under section 376 of the Indian Penal Code, which relates to rape, when the accused was the husband of the woman. The number of cases during the five years preceding the Act of 1925 was nil and the number of cases since the Act has also been nil. It is hardly to be wondered at that there were no prosecutions at all, for who will be the prosecutors? The wife or the parents or guardian of the wife should be the

prosecutor, and it is improbable that a wife or her parents or guardian would launch a prosecution against the husband or the son-in-law as the case may be. Therefore I am not surprised that the result of this legislation is nil. I think, Sir, that the improvement which has taken place in this respect is due more to the social reform work which has been carried on in this Presidency and elsewhere than to legislation undertaken by the Government of India."

The public in my part of the country show equal resentment to both kinds of measures.

21. Penal legislation in this matter is not only futile but very mischievous. The only remedy for the people would be to set the Government at naught. That legislation is worthless has been made clear by Mr. Campbell. The Government of India cannot afford to dispense with a detailed study of that speech for enlightenment on various other matters also.

For the purpose of the questionnaire it is sufficient to assert the Penal legislation is never the proper instrument. By what other methods it will be obtained, it is no concern of the Government to enquire. It rests with the people who are interested in themselves to determine those methods.

Written Statement, dated the 25th July 1928, submitted by Y. KRISHNA REDDI, B.A., B.L., Yakkil, Yellore.

1, 2 (2), 6, 13 & 20. That much dissatisfaction exists in these parts with the Law of the Age of Consent as contained in sections 375 and 376 of the Indian Penal Code, since—

- (1) it has no practical application to violations within the marital state, where it is only puberty or no puberty that determines the time of consummation of marriage and not the law-prescribed Age of Consent, nor has it been equipped with proper arms for booking breaches of the same in extra-marital state where open prostitution has the sanction of custom and the task of finding out the real age of the girls is no easy job for the prosecutor, and
- (2) above all it has not fixed the Age of Consent on any scientific considerations of the physical fitness of girls (of 13 and 14) for living with their husbands or of their mental capacity for expressing a free will with any sense of responsibility as to the consequences of their acts.

Hence the prevailing opinion in favour of raising the Age of Consent to a still safer period in life both in marital and extra-marital state and of securing legislation of an effectively prohibitive nature on infant marriages, without which legislation the law of the Age of Consent even in its anticipated amended form (as per Dr. Hari Singh Gour's Bill) would be in effect a nullity and the several admitted forms of marriage which are only euphemisms for seduction and rape will continue to defy the authority of law with impunity.

However, it may also be said here that even Mr. Sarda's Bill as it has emerged from the Select Committee cannot be deemed a proper and satisfactory redress for the ills complained of, and that 14 and 18 years for girls and boys respectively is no improvement on the existing state of affairs. The public opinion being in favour of 16 and 21 as the minimum marriageable ages for girls and boys respectively, all methods of doling out social legislation by instalments and stages are certainly viewed with dissatisfaction.

4. 95 per cent. of the population do not know that there is the law of the Age of Consent much less the 1925 advancement thereon. Anyhow, it is not so much ignorance of law as the non-existence of prohibitive social legislation that drives the people to indulge in child marriages and early consummation of the same within the prescribed age-limit, however, palpably

prejudicial it may be to the physical and moral welfare of the individuals and the nation. Hence no improvements or desirable changes can be said to have been effected in this direction even by 1925 amendments.

5. 13 is the usual age at which girls attain puberty in these parts and in well-to-do circles they attain maturity even between 11 and 12.

7. Pre-puberty and infant marriages of now-a-days as against adult marriages of the Vedic period are the later inventions of "Brahminical puritanism" founded in strict conformity with the rude injunction of a barbarous age, "give no chance for the girl to go wrong", and this is quite akin to the savage practice of deforming the feet of the innocent girls with iron shoes even while they are babies so that they may not run away with their paramours on attaining their age.

Early consummation of marriage is the necessary concomitant of early marriage and does not at all form part of any religion. Early consummation of marriage far from being a religious ceremony is an indirect invasion of another's comfort and independence. A custom that leads to destruction and not construction and an usage that hinders free and vigorous growth must be condemned by all classes of people irrespective of their difference in race, language, etc. Social conservatism and Political Democracy can never go hand in hand. The spurious agitation started in the name of religion against all honest attempts at social reform is but a cowardly attempt on the part of the vested interests to scare away the Government for all time to come from trespassing upon their jurisdiction, however, beneficial such an interference on the part of the Government may be to the nation and to the religion they so vehemently plead for.

Mr. Jyoti Swarup Gupta of the Allahabad Bar writing to the journal section of the All-India Reporter expresses his views on the question of the Age of Consent thus: "there will be no two opinions about the disastrous effects of early consummation of marriage resulting the early maternity. The appalling infant mortality, the high death rate of ladies during child-bearing age, the too weak physique of ladies and children resulting in the deterioration of the physical and mental stamina of the nation is all due to early marriage. Is it then not up to us to put a stop to this custom which is undetermining the vitality of the whole nation. The argument is repeated too often that this or that minor alteration in the usage, custom or legislation violates some great principle underlying Hindu religion. This cry was raised when we began to cross the sea or interdine. It was raised in the case of Sati Abolition Act, Caste Disabilities Removal Act, and the Civil Marriage Act. But the great Hindu religion survives all these attacks and continues to maintain its ancient strength. The British Government on grounds of humanity adopted legislation to put a stop to morally objectionable practices and it is certainly its duty to help in the passing of all progressive legislation. The legislature should not feel shy of making slight changes in the social customs of the people which do not form part of religion, but have grown like weeds in the green and prosperous garden of the Indian Nation."

9. Attainment of puberty is no indication of physical maturity, much less maturity of judgment and character. The view of the majority that the age-limit for the girls should be raised to 16 has its recognition already in section 861 of the Indian Penal Code, which when compared with sections 375 and 376 is only a minor offence, and this view may, therefore, be deemed safe and permissible.

10. A girl of 16 can be declared to be competent to give an intelligent consent to cohabitation with a due realization of consequences.

11. A girl who attained puberty in her 12th year and was married soon after gave birth to a male child at the end of her 14th year. The mother is suffering from gout ever since then and the boy who is 14 is dull and lacking in energy.

12 & 21. High maternal and infant mortality are certainly due to the early consummation of marriage. But the actual tragedy lies more in the disastrous effects of the same on the surviving girl-mothers and their un-

fortunate imbecile progeny to whom life is a burdensome commodity. Hence, it is no wonder that India occupies an unenviable position in the health records of the world.

Again female education can never have a progressive and rapid course, and higher studies among females will be a rarity unless and until the pernicious system of child marriage that clogs the wheels of their progress in all directions is put down by all possible means without further delay.

Education and social propaganda can do little or no good in this direction in India where education itself cannot progress so rapidly as in other countries owing to economic conditions, and where social conservatism has its own enthusiastic advocates in the "twice-born", the very community which claims to be the repository of all knowledge and pretend to be burning with zeal more than anybody else for advancing the interests of the country. The apprehension of social boycott which cannot be dispelled except through legislation constitutes another formidable barrier on the way towards reform.

14. Women do not generally countenance early consummation of marriage for their children, for, it is they who know where the shoe pinches. The enlightened opinion in favour of raising the Age of Consent, and fixing the minimum marriageable ages for girls and boys through legislation is gaining ground among women in these parts, and the strenuous efforts of the lady Deputy President of the Madras Legislative Council in this direction, and the enthusiasm that is evinced by women in passing resolutions so repeatedly in the Women's Conferences in support of Sarda's Bill are proof positive of their anxiety to do away with the pernicious custom of infant marriages at the earliest possible opportunity.

15-16. In a hot country like India where girls attain puberty even when they are 11 and 12 it is not always possible to distinguish between girls of 12, 13 and 14. No doubt perceptible distinction can be observed between girls who are between 12 and 14 on the one hand and 16 and above on the other. The suggestion that it would be safe to issue birth-certificates to the parents simultaneously with the registering of births noting down therein the date of birth as well as the exact date when the child attains the law-prescribed Age of Consent or the minimum marriageable age, so that they may serve as a guide to the Courts as well as the holders thereof, deserves attention in view of the insuperable difficulties being experienced in finding out the exact ages of girls for purposes of sections 375 and 376, Indian Penal Code.

17-18. Extra-marital offences no doubt ought to be distinguished from marital offences. But if the legislature fixes the minimum marriageable ages for girls and boys in conformity with the Age of Consent (proposed by Dr. Gour) the need for dealing with offences within the marital state does not at all arise as no offence under sections 375 and 376 can be committed then as the minimum age of a wife cannot then be below 16. Punishments for offences under sections 375 and 376, Indian Penal Code, within the non-marital state should be more serious and deterrent. The risks here being to the moral aspect of life also, and the offence being more to the detriment of the girls' future prospects and social status, a heavy fine also should be levied upon the culprit and the same should be paid to the wronged person by way of compensation. While absence or resistance on the part of girls when they are above 13, and delay in complaining or reporting the matter, as well as the character and private life of the parents, and of the girls as well when they are above 13, are to be taken into consideration as mitigating circumstances in levying punishments, the minimum penalty should in no case be simple fine. The maximum punishment of transportation for life should be inflicted in addition to fine in the case of offences where the girl is below 13 and the offender is above 21.

If in consequence of the forcible cohabitation (within the non-marital state), it is established that the girl has become pregnant then in addition to the levying of fine as suggested herein, the Courts should on the strength of medical evidence specifically state in their judgments that the aggrieved is

carrying and the pregnancy is attributed to the accused, so that the prospective child may be entitled to maintenance under section 488, Criminal Procedure Code, or to a charge upon the accused's property which he or she can secure through a Civil Court. In all such cases the trial should be deferred for at least two months, and the girl should immediately be kept under proper supervision so that the pregnancy may beyond doubt be attributed to the accused and accused alone.

Written Statement, dated the 9th August 1928, of Pandit S. S. ANANDAM, President, South Indian Maruthuva Sangam, 221, Mint Street, George Town, Madras.

1. Though I am not dissatisfied with the general scheme of law as to the Age of Consent as contained in sections 375 and 376 of the Indian Penal Code, I seriously object to the exception appended to section 375, since the operation of it negatives the very spirit of the law and defeats the purpose for which this section is intended.

A man, who has sexual intercourse with his wife, who is lawfully married to him, the wife being not below 13 years of age, is not said to commit the offence of rape in the meaning of section 375 of the Indian Penal Code. This, I regard as defect in the law. Section 375 must be made wider in its scope, so that a man taking sexual intercourse with his wife or any other girl, who is not his wife, with or without her consent, that girl not being 16 years of age, must be regarded as having committed the offence of rape in the meaning of the section 375.

I am of opinion that the age for cohabitation in the case of girls must be fixed at 16. The physical degeneracy of the several Indian races is due to early indulgence in sexual intercourse. This indulgence in sexual intercourse, before the body attains its full growth and nerves get strengthened, is also greatly responsible for the widely prevalent infantile mortality and for a large number of girl-widows in India and for child-birth proving fatal to mothers in most cases. To ward off such evils, I feel, that the marriageable ages of boys and girls must be fixed at 22 and 16 respectively.

2. I hold that the present law regarding the Age of Consent must be improved and it is necessary to make an advance on it.

Sections 375 and 376 of the Indian Penal Code, when read together, will mean that a man who has intercourse with his own wife, the wife not being under 13 years of age, does not commit the offence of rape, though punishable under section 376A. Whether sexual intercourse with a lady before she is 14 years of age is regarded as an offence or only a crime punishable under section 376, cases where such cohabitation may be indulged in before a girl is 16 years of age are not contemplated by the law. A girl at the age of 14 cannot be competent to give consent to cohabitation with due regard to its consequences. Besides, pregnancy in the case of girls under 16 years of age are generally proving fatal.

3. Crimes of seduction or rape are prevalent in my part of the country with immoral traffic in women.

It does not appear to me that the amendment of the law made in 1925 raising the Age of Consent to 14 has, in any degree, prevented or reduced cases of seduction of girls or rape outside the marital state. Since girls below 16 are too young to realise the consequences of their acts, they are likely to fall a prey to temptation and induced to easily leave the abode of their parents or guardians for immoral purposes. But girls of the age of 16, I am of opinion, are old enough to realise that they have an honour to zealously guard, and which they will not easily part with. So the Age of Consent fixed at 16 will be a sufficient safeguard.

4. The amendment of 1925 raising the Age of Consent to 13 within marital state has not prevented the wives from cohabitation with their husbands.

(1) Postponing the consummation of marriage will not be a safeguard against the evil, since after marital relations are established between a man and a woman, the former will have an easy access to the woman. There is no need, when marital relations are contracted between persons of different sexes, that there should be two ceremonies, one the marriage and the other the consummation of marriage, the latter being performed some time later. It seems advisable to raise the marriageable age of girls to 16 so that both the ceremony of marriage and the consummation of it may take place together at any time after the age of 16. Among some communities, consummation of marriage takes place the very next day after marriage ceremony. And this seems to me to be a good custom.

(2) It is absolutely necessary that public opinion must be educated and mobilised on the subject and propaganda work in this direction must be undertaken both by Government and private bodies. Children (boys above 14 years of age and girls above 12 years of age) at schools must be taught sexual science on a moderate scale so as to make them realise the evil that results from early indulgence in sexual intercourse.

(3) Fixing the marriageable age-limits in the case of girls at 16 and 22 in the case of boys seems to be the best remedy. Even after these ages are reached, the parties contracting marital relations must be subjected to medical examination and certified as to their fitness for contracting such relations.

5. Girls in India generally attain puberty only after the age of 13. It does not appear that this differs much in different castes, communities or classes of Indian society.

6. In the Madras Presidency cohabitation before puberty and before the girl completes 13 years seems to be prevalent among a small section of the Hindus, namely the Brahmins. But I am not aware of any such instance among non-Brahmins, for, among them girls are generally married after they attain puberty and complete 13 years.

7. Among the Brahmins of South India, the custom of marrying girls, before they attain puberty, is widely prevalent. Only by long practice and adoption this custom seems to have acquired a general recognition and besides this, there is no religious or legal injunction enjoined nor does it appear there is any penalty attached to what ought to be regarded as a mere breach of custom.

9. Attainment of puberty by a girl cannot be taken as a sufficient indication of physical maturity to justify cohabitation or consummation of marriage. To allow a girl to build up a virile body and in order that her progeny may not be affected, according to best medical authorities, cohabitation or consummation of marriage must be strictly prohibited until after four years following the attainment of puberty.

10. I am of opinion that a girl in India cannot be competent to give an intelligent consent to cohabitation with due regard to its consequences before she is 16 years of age. It is incongruous and inconsistent that, while her age of majority is fixed at 18 in her legal relations such as contract and proprietary rights, her age may be above 14 with regard to her acquiring marital relations.

11. Girls in India do not attain full physical development before they complete 16 years. About 80 per cent. of them are physical wrecks unable to bear the sufferings of motherhood and present a very woeful picture. Since I am running a free dispensary, I have more often, than not, treated such cases, and I confidently assert that I have proofs of them. Besides, I am sure that such proofs will be available in abundance in hospitals intended for Goshas.

Married girls in the Brahmin community becoming mothers of children before they complete 16 years is a common occurrence and this seems to be commonly prevalent among other communities or races of the Indian society. To guard against such evils, which have been eating into the vitals of the nationhood of India, legislation is absolutely necessary.

12. *Vide* answer for question No. 11.

13. There has been development of public opinion in South India in favour of an extension of an Age of Consent in marital and extra-marital cases and this generally seems to favour the age of 16 in the case of girls and 22 in the case of boys, and condemn child-marriage as can be seen from the resolutions that are being passed from time to time by private bodies or associations at their meetings—private and public—and conferences. The South Indian Maruthuva Sangam, Madras, of which I am the President, have at two or three of their conferences passed resolutions condemning child-marriage and communicated the same duly to Government.

Though young men and women to be married are very enthusiastic about social reforms and are very brisk in formulating plans and schemes to root out the evils and pass resolutions condemning child-marriage, they generally find it difficult, if not impossible, to put them into practice, since they are reluctant to disregard custom which they treat as time-honoured, and to override the wishes of their parents who are more conservative. Therefore, an outside agency compelling them on pain of punishment to observe certain rules of marriage, before marital relations are contracted, is necessary. Almost all dailies and periodicals, English as well as Vernacular, are in favour of raising the Age of Consent and condemn child-marriage, though a few self-interested people and obscurantists may be anxious to arrest the growth of reform. It does not appear that these people have realised the significance and consequences of child-marriage.

14. The general illiteracy of women in India is one of the obstacles that stand in the way of reform. They are given up too much to old customs, which they regard as time-honoured, and cannot be easily prevailed upon to shake them off. Besides, they do not enjoy the same privileges and liberty as men enjoy and being, as they are, in a subordinate position, they easily yield to their ignorant and obstinate husbands, and they have no option but to endorse the views of their husbands, when they marry their children.

Educated women do not favour child-marriage and so I am of opinion that with the general dissemination of education, such evils will disappear and women will no longer favour early consummation of marriage of their children.

15—16. Generally, it is difficult to determine the age of girls from appearance. One way of precisely knowing their age is by referring to the entries made or recorded at the time of their birth in the registers kept in the office of the Registrar of Births.

Age can also in a way be ascertained from the number of teeth a girl may possess at the time of examination.

It is possible to reduce this difficulty, if not altogether extinguished if the Age of Consent is raised to 16, since it is easy at this stage to say from appearance owing to maturity of physical growth that the girl might have passed the age of 15.

17. It does not appear to me to be good or wise to introduce any difference in the procedure of trials for offences within and without marital state, provided that the offence committed is to a girl below 16 years of age, since all tend to bring about the same result.

18. *Vide* answer for question No. 17.

20. *Vide* answers for questions Nos. 3 and 4.

21. I rely on the strength of the Penal Law to secure the objects in view as only one of the means. It is not complete or adequate. I believe in the efficacy of social propaganda and spread of education.

In conclusion I may point out that 90 per cent. of the Indian girls, leaving out Christians and Anglo-Indians, do not, or, at any rate, are not allowed to see those whom destiny designed to be their partners in life in order to have a sufficient idea of them. This selection of husbands in proxy by the parents for their daughters ought to be checked and a legislation must be introduced, whereby a girl or a boy of marriageable age ought not to be coerced or

forced to marry a boy or a girl against his or her wish or consent. Another evil which is commonly prevalent in Hindu society and particularly in the Brahmin community is the system of Varadakshina or dowry system. The unfortunate father of a girl has got to meet, ridiculous as it is, the unfair and unjust demand made upon his purse by his new son-in-law.

I sincerely pray that the Age of Consent Committee will graciously pay attention to this aspect of the matter and do what they can to remove the evil.

Written Statement, dated the 10th August 1928, of the Hindu Social Reform League, Madras.

1. Yes, there is a great dissatisfaction.

2. It is the opinion of this League that an advance on the present law should be made. From the educational, social and medical points of view an advance is quite necessary.

3. Yes, such cases are fairly frequent. The amendment of the law made in 1925 has not had any tangible effect. The law should be made effective by raising the age to 18 and by making the existence of such a law known to the public by advertisement and by propaganda work through the press, social organisations and vigilance and rescue organisations.

4. It is not possible to say if the amendment of 1925 has been effective in protecting married girls against cohabitation with husbands within the prescribed age-limit by postponing the consummation of marriage. In this Presidency cases of illicit married intercourse, if any, do not come to light. In some cases, marriages are put off beyond 13. But in the opinion of this League this is not entirely due to the public opinion having been stimulated in that direction by the law, but mostly due to economic causes. Marriage is a very costly affair in this part of the Presidency and many poor parents who cannot afford to pay large sums of money as dowries are perforce obliged to wait.

To make the law effective in postponing the consummation of marriage the Age of Consent should be raised. To put down infant and child marriages, marriages below a certain age should be declared invalid by a legislative measure. Much faith cannot be placed in public opinion moving in this direction, for it is the educated upper classes that are the worst sinners.

5. It is not easy to say definitely at what age girls attain puberty. In general girls who are married early attain their puberty early between 11—13. Among classes where the marriage takes place later, girls attain puberty from 12—14.

6. (i) Cohabitation is not common before puberty, though there may be a few stray cases.

(ii) Cohabitation invariably takes place soon after puberty.

(iii) Yes, in case of early pubescence, cohabitation takes place in some cases even before the girl completes 13 years. These cases do not come to Court.

7. As far as we know there is no religious injunction sanctioning early consummation of marriage before or at puberty.

8. Yes, "Garbhadan" ceremony is performed here on the same day as the consummation day.

9. Not at all. A girl's physical development may be considered to be enough to justify consummation at her 18th year. A few years should elapse after her puberty.

10. This is a general question. It depends on the education imparted to our girls in sex hygiene and in the responsibilities of motherhood. Ordinarily it may be taken that she is competent to give intelligent consent after 18.

11. The League is unable to answer this question. But medical people are of the opinion and they have produced statistics in support of their view, that early cohabitation does harm to the girl-mother and is responsible for still births and abortions.

12. Yes, to a large extent.

13. Yes, there is a development of public opinion in favour of further extension. It is general and not confined only to certain classes. Even the "diehards" in the orthodox section of the people do not oppose postponing the Age of Consent.

14. No. The mothers of the girls are not anxious to have early consummation.

15. Difficulties in determining the age of girls are likely to be experienced in view of the fact that there is no system of registering births. Medical certificates concerning age are no good. Compulsory birth registration is the solution.

16. We should think the difficulty would be minimised if the Age of Consent is raised to 16 or above.

17. The two classes of offences should be differentiated. The maximum punishment for extra-marital offences, provided in the law, will be sufficient. The treatment of marital offences should be more lenient and the punishment less rigorous.

18. The two classes of offences should be tried only "in camera".

19. The only safeguard is perhaps public opinion. Improper prosecutions and extortions may be avoided by having vigilance associations and panchayats so that complaints may come to Court through them.

20. As already referred to, the ultra-orthodox section is not opposed to legislation fixing a higher Age of Consent as it is to the legislative measure fixing the minimum marriageable age. If the fixing of a higher Age of Consent is to be effective, it should be fixed at 16. But as we are afraid marital offences may not all come to light, legislation penalising marriages below a minimum age would greatly help in raising the Age of Consent.

21. No doubt education and propaganda have brought about a certain amount of social reform. But there should be a strengthening of the penal law also.

Written Statement of Mr. M. A. SRINIVASA IYENGAR, B.A., B.L., 21, South Mada Street, Triplicane, Madras.

1. There is a dissatisfaction among the thinking public with the existing law on the Age of Consent as contained in sections 375 and 376, Indian Penal Code. As regards the masses, they don't concern themselves about these things. An ordinary man does not think about this until an accident happens in his own house. When it gets out of his control he attributes it to his Karma and proceeds to earn his to-morrow's meal.

2. Everybody feels that the age must be raised to 16. But I personally feel that no man ought to have anything to do with a woman even if she should be his own wife until she is a major or past 18 years. It is only after that period of 18 years that these words "against her will" and "without her consent" do get any meaning at all. As long as she is a minor she cannot exercise either her will or consent with regard to even her own property, much less should she be deemed to have any such capacity, with regard to a matter which affects her vitally, and often brings about disastrous or at least painful obligations, throughout her life. My second reason for making an advance on the present law is that it is medically harmful to tolerate early cohabitation both from mind and body.

3. In Hindu families where the girls are married too early and when they are in a weak state of health, cases of seduction or rape cannot be

frequent. But this is not due to the amendment of the law, but due to the other causes. There have been cases where when the sons-in-law are getting wayward and the parents of the girls in order to keep the boy under control make a false show of their girls having attained puberty and celebrate the nuptials in due form. And the girl actually attains puberty only after having been handled by her husband. It is to prevent all these cases that I propose only one thing. There ought to be no nuptials for the husband or illicit connection with a stranger until the male member is able to prove that the girl has attained majority. Even if that age should be considered very high the border line of the violation or evasion would be somewhere between 16 and 18. But certainly not before 16. For no man who had committed the offence on a girl of 13 or 14 would be able to say that he thought that the girl was a major.

While for every other matter relating to a girl, she is considered incompetent to contract before she attains 18 years I wonder why in sexual matters alone the most important thing in her life, she should be considered competent to give either her will or consent.

4. The law has not been effective in postponing the consummation of marriage. If they put off marriage beyond 13 it is for other reasons than their knowledge of this legislation or its penalty. I would propose that every boy who wants to celebrate his nuptials should produce a certificate from a high grade medical officer that the girl is of marriageable age and physically and mentally fit for cohabitation and produce also a birth-certificate of the girl wherever possible.

5. Thirteen is the usual age at which girls attain puberty in my part of the country.

6. Cohabitation is not common before puberty. It is common soon after puberty, even before 13 years and these cases do not come to Court.

7. There is no religious injunction. Our people cannot really distinguish between a religious injunction and a legal injunction. Everything according to them is religious. Even those who believe in a religious injunction to marry about or before the age of puberty have no greater authority than the Vedas and Manu. Both in the Vedas and in Manu there is absolutely no penalty fixed at all for post-puberty marriages. On the contrary, in Manu it is distinctly stated that no particle of sin attaches to the couple marrying even after three years after puberty. (Manu, Ch. 9, 91-94.) Only in such cases, the father loses his right to any money from the son-in-law.

(Manu is mentioned with veneration in the Vedas. His doctrine is declared to be as wholesome as medicine, and Brihaspati says "Manu is the principal authority as he has embodied the teaching of the Vedas. That Smriti deserves no regard which is at variance with his doctrine".)

8. The Garbhadan ceremony is performed both on the fourth day after the betrothal and at the time of the nuptials after the girl attains puberty.

9. I do not consider the attainment of puberty is a sufficient justification for immediate consummation of marriage. I would consider at least a period of 5 years should elapse before she is fit for copulation.

10. As India is custom-ridden with ideas about early marriage and about its being the sole duty of a girl to procreate children, I would consider that it would take a very long time for her to raise above these ideas and decide for herself. I would put the age at 21. It is only then that she gets some better experience in life with her shattered health and with a number of weak and famished children to support.

11. In my own house my eldest daughter whose nuptials were celebrated about 2½ years after she attained puberty, died of the effect of cohabitation. The girl attained puberty when she was 12½. Because of her weak state of health I could postpone the nuptials, till her 15th year only with great difficulty. Even then she was quite unfit for nuptials, but the son-in-law was living with me and even though I might have postponed the formal ceremony, I could not have prevented the boy's pressure with my mother to

support him; and the girl died ultimately in spite of the best medical efforts. She so dreaded getting into the nuptial room. So many things in life we learn only when it is too late.

12. I consider early consummation and early maternity responsible for high maternal and infantile mortality. Besides we cannot give the girl any education. We cannot breed thoughts and children at the same time.

My second daughter is an illustration for my answer to this clause 12. In this case I wanted to conform to the usual early consummation and also educate her. It was a miserable failure, legally, intellectually, and physically. Immediately after the girl attained puberty, the husband, asserted his legal rights to stop the girl from going to school and celebrated his nuptials. Otherwise he threatened to take a second wife. The matter was fought out in the High Court of Madras, and one of the most equitable judges thought it to be in the interest of the couple to live together even at the expense of education and though the girl, aged 17 years and 11 months at that time, refused to go to her husband in open Court and was willing to get along with her study. I was asked as her technical guardian, to send her away to her husband and was mulcted with costs. The girl was sent away but in a few months she came back to my house as she became a major by that time, the only course open for the husband was to sue for restitution of conjugal rights. So a compromise was effected and the couple were living like husband and wife in my house and the girl was sent to school again. She could not pull on well in the class afterwards, with her attention divided between husband and books. Her health became worse and I was afraid she might share the fate of the previous girl, her elder sister. So I had to sacrifice her education altogether and send her away with her husband. After this experience with these two girls, I have set free my other four girls. I have kept them unmarried and they are all quietly studying, one in the B.A., two in the Intermediate, and one in the S. S. L. C. class. I am absolutely free from all troubles now.

13. There is a change in public opinion about early marriage and the Age of Consent, but it is all due to economic necessity. It is not general but confined only to certain intelligent classes.

14. Mothers of girls do not in our part of the country favour an early consummation of marriage. But having married away the girls at an early age, they are absolutely helpless. The boy wants the girl for his wife and his people want an additional hand for domestic work. So the nuptials are celebrated within a few weeks after she attains puberty.

15. Very few cases go to Court under these sections and even when they do, it would be very difficult whether, the girl is 13 or 14 years old. I would suggest a production of the birth certificate which would remove these difficulties. To avoid all difficulties whatsoever, I would consider it rape for any man to have anything to do with a girl, sexually, under 18 years of age, the burden of proof that she is over 18 being on him in case of any doubt. The fixing of this age would certainly raise the Age of Consent to 16 years practically because it would be impossible to make a girl of 13 or 14 years look 18.

16. There will always be a tendency in people to cheat the legislation and even if legislature should consider 16 to be the proper Age of Consent in order to see that it is given effect to that they must two years over.

17. I would separate extra-marital offences from the marital offences. In one case, i.e., extra-marital, the punishment should be deterrent, say, 5 years' rigorous imprisonment, the maximum. Fines are no good. In marital offences a heavy fine of not exceeding Rs. 1,000 might do and no imprisonment of any sort, because after a rigorous imprisonment, even if it is for a year, having kept company with jail-birds of all sorts he would come home a hard-hearted callous and revengeful husband; and the girl not having been given any training in any craft, art, or science to support herself independently would have to put up with him anyhow and it would be cruel to deprive her of her bread-winner.

18. I will not make any difference in the procedure of trials for offences within and without the marital state. But I would throw the burden of proof on the male to show that the girl is of proper age, i.e., not coming under the section.

19. To prevent collusion once there is a complaint or information the burden of proof of the age of the girl should be on the male even if the complainant or informer should absent himself at the hearing.

20. Fixing a higher Age of Consent for marital cases is not likely to be more effective than fixing the minimum age of marriage. According to the present rigid custom once a girl is married to a boy, she is tied to him for ever. She cannot purchase her freedom, she cannot divorce him, if he dies she becomes a widow. If he becomes helpless she has no independent means of earning her livelihood. When she is thus tied to him it is impossible that any fuss would be made of any violations of the Age of Consent section, the principal witness in the case being the wife. Under no circumstances will anybody even advise her to depose against her husband. It is quite different in the case where there is no such relationship at all. It would be a serious offence on the part of any man to have anything to do sexually with a girl who is quite a stranger to him. It would be a crime of the worst kind. Therefore, I believe the more effective a legislation would be to fix the minimum age of marriage at 18 at which age alone the words "her will consent", etc., can have a real meaning. So far as regards her property these words have any meaning only after her eighteenth year. In my part of the country there are two kinds of opinions. One which wants no legislation on the minimum age of marriage because they can delude themselves with the idea that they are following the Shastras. As for being dragged to Court by the Penal Code, they are not afraid of because they are sure of the want of witnesses. And the second kind of opinion is to have the minimum age of marriage fixed because they could convince their relatives that if they have to violate the Shastras, that is, because of outward pressure, the real reason being their economic difficulties. Of the two, I think the latter opinion preponderates.

21. I would certainly prefer to rely upon the strengthening of the Penal Law to secure the object in view. The masses are illiterate and are solely occupied with finding means for the morrow and are nothing more than hewers of wood and drawers of water. They must be saved against themselves and in all legislatures they have been treated little better than spoon-fed babies. They have not the capacity to contract for themselves with their masters either with regard to the time of service or with regard to their wages. So with regard to their time Factory Laws have come into force. With regard to their wages agitations are made for legislation for minimum wages. They cannot pay for the proper delivery of their wives, nurses are given to them free. They do not know anything about bringing up healthy children, so Child Welfare schemes are afoot. In some European countries children of the poor are being taken over by the Government and brought up in public nurseries. They have not the sense to realise the far-reaching bad effects of drinking. So prohibition acts have to be enforced. They cannot borrow money at a proper rate of interest, so Usurious Loans Act is passed. They cannot utilise either a handful of coins or a few hours of leisure without running either to gambling or drinking. Acts have been passed and recreations have been made to save them from all these incapacities. It is a matter of surprise that they should be supposed to have the capacity, knowledge and education to behave properly with regard to the other sex at the age of ("indiscretion") about 20, in a matter in which very great men have failed even at an advanced age. Legislation is absolutely necessary. This is most important to the physical, intellectual and social welfare of the country. Finally, I request the committee to recommend to the Government that in a matter like this if they should interfere and pass an act they would be helping the poor dumb millions of females beyond all calculation, and I am sure both the Committee and the Government would enhance their prestige immensely in future history and whatever

might be said against British rule in India, this and similar acts passed in the Statute Book would be standing monuments of the benignant way in which the British Government discharged the sacred trust which God Almighty has placed in their hands.

**Written Statement of CHANDRASALKHARA SASTRI, Student,
Law College, Madras.**

1. Except on the part of a minority, there cannot be said to be any dissatisfaction with the present law, at least as far as non-marital rape is concerned.

2. The law of the Age of Consent ought not to remain as it is for many reasons. As regards married women, the age ought to be raised, for, motherhood even at the age of fourteen is attendant with so many dangers. As regards non-married women, the greater the obstacles put in the way of sinners the better.

3. Seduction in the city of Madras must in the nature of things be larger than in the mofussil. Cases of rape do not generally come to light. Nor are they frequent either. I am not sufficiently well-informed to answer the 2nd and 3rd parts of this question.

4. The amendment has been practically ineffective. But it must be stated that owing to various other causes, cohabitation does not take place before, usually, fourteen years of age.

The only way to prevent evasion of the law will be to issue birth certificates to all female children at the time of birth registration and these must be required to be produced when this female child's first child's birth is sought to be registered years hence.

5. Girls attain puberty generally at the age of twelve.

6. (1) None to my knowledge yet.

(2) Among many families cohabitation does not take place till at least three months after puberty.

(8) There are not wanting a few cases. No case has in the last few years appeared in the newspaper reports of legal proceedings.

7. There has never existed a shadow of doubt about the irreligiousness of consummation before puberty. There is no insistence on consummation at puberty by any religious rule which is honoured now. In fact when the girl attains puberty at any inauspicious moment, the consummation is put off inauspicious moment, the consummation is put off invariably for periods extending to months.

8. This ceremony is compulsory in the case of Brahmins. This ceremony and the consummation of marriage take place on the same day. It is performed invariably after the attainment of puberty and at the time of the consummation of marriage.

9. Not at all. The girl should be at least sixteen years of age if her health and that of her progeny is to be satisfactory.

10. In our presidency a girl of fourteen would be competent to give an intelligent consent.

11. As regards cohabitation after puberty in the case of girls of less than fourteen years of age, it has resulted in some cases prejudicially to the health of the progeny.

12. Early consummation and early maternity are chiefly responsible for infantile mortality though other causes also operate, *e.g.*, poverty, ignorance, wrong midwifery, etc.

13. Public opinion is divided on the question. While about twenty-five per cent. of the population desire an advance on the present law, 25 per cent. are dead against any legislation while the remaining 50 per cent. are either in no way concerned with the legislation as it does not affect them or are indifferent to social problems. The educated classes are generally in

favour of raising the age of consummation though many of them too are against State interference.

14. They do not.

15. So long as corruption exists in the medical department, truth cannot be arrived at.

16. There would be a slight improvement.

17. In my opinion imprisonment for a day is enough in the case of marital offences. For the indignity attached to imprisonment for non-political reasons is enough to deter any man if at all he is to fear imprisonment.

18. Both should be in camera, though the announcement of the punishment awarded may be notified in the press.

19. Dismissal of any public servant who prosecutes with no *bona fide* belief in the offence.

20. Fixing the minimum age of marriage is likely to be more effective as well as more in consonance with public opinion.

21. I would prefer the latter though I hold that both are necessary.

Written Statement, dated the 10th August 1928, of Mr. M. R. Ry. P. SITRAMAYYA PANTULU GARU, Secretary to the Government of Madras, Law (General) Department.

1. Yes.

2. Change in public opinion.

9. No. Preferably 18 years, minimum 16.

10. Certainly not before 16.

12. Yes. Children have little vitality and strength.

13. Yes.

15. Yes. Birth certificates to be given to parents.

20. Both.

21. The first is needed as well as the second.

Written Statement, dated the 10th August 1928, of Mr. S. RAMASAMI IYER, High Court Vakil, Mylapore.

2. The circumstances which justify in my opinion an advance on the present law on the Age of Consent are the following:—

(i) The practices of the Hindu community in regard to child marriage and consummation are in my opinion barbarous and highly injurious to the life, health and happiness of the women in particular. When the Brahmin community in which the male members are most advanced intellectually and socially continues such practices with callous indifference and often with self-satisfaction and pride there is no wonder that the general position of women in other communities who usually copy Brahmin customs and observances and who are less advanced in education and in social position should be even lower. The great injury to the life and health of girls on account of early consummation and maternity is now accentuated by the insanitary conditions of cities in which more and more from villages are migrating, the stress and strain of city life, growing poverty and want of sufficient nutrition and care in childhood. Under these circumstances the results of compelling girls to lead a married life in their tender years are disastrous to them and should be remedied immediately by legislation as far as legislation can do so.

(ii) It is usual for girls among the Brahmin community to attain puberty between the ages 11 and 13. Those who do so before 11 or after 13 are rather exceptional. Generally the husband or his parents ask the parents or guardians of the girl to send her to their house, for consummation soon after puberty which is announced to them and celebrated with éclat. It is very rarely that they consent to put off the consummation beyond a few months. The husband is generally a boy reading in the college classes or if he is uneducated enjoying his leisure in his village and the circumstances of his environment and upbringing stimulate and encourage the marital expectation and he feels aggrieved if it is not satisfied soon after his wife's "attaining puberty" or "age" as it is called. In cases where the husband is older as is often the case, say, above 22 and much more in cases where he is in middle age and has married a second wife after loss of the first, he insists on immediate consummation and simply comes and takes the wife soon after puberty which he openly awaits with eager expectation. I know cases where the husband has taken her to his house even before puberty.

(iii) The generality of girls in my community are at the ages of 11 to 15 when they are usually consummated, stunted, ill-grown and ill-led with rare exceptions. They are tender children but are by modes of dressing with long and heavy pieces of bright cloth made to appear bigger in size. They often became mothers at the age of 13 or 14. I know of numerous instances of such mothers. I also know of many cases where the girls have suffered from abortion. Girls who have had pregnancy rarely grow afterwards in stature and are condemned often to permanent suffering and illness or to painful death. Cases of uterine troubles, general debility, anaemia, consumption, etc., are almost general. But the demands of the husband for his house-keeping or sexual needs are often not relaxed on this account as he is a young man who has barely tasted life and is in need of an active partner at home. The girl-wife or mother is therefore as if pushed on a steep downward incline. The future course of her life is generally marred by frequent attacks of some serious ailment or other and with such handicaps she has often to bear more children and in any case to bear the responsibilities of running her home. In many cases she is denied even the comforts and the peace of her own home as she has to live with her mother-in-law and other relations of her husband. Altogether the lot of the average girl is an unhappy one. Even when she is comparatively free from the above troubles, I consider her position requires improvement because in modern conditions a girl before 16 or 18 is unfit mentally or physically to enter upon the responsibilities of marital life.

(iv) Absolute possession of a young and tender girl of 12, 13 or 14 encourages and emboldens the husband who is himself young, undisciplined and inexperienced to take liberties with her body and health which a grown-up young woman with some rudiments of will-power and intelligence developed in her will not allow. The results are ruinous to her health and often to her life and in any case to her intellect and personality which never grow but are always those of a child.

(v) Within the last 10 or 15 years instances of definite and speedy injury resulting to girls from early consummation and maternity are becoming numerous and more generally the case than otherwise. Beyond the cases that go to the doctors or to hospitals there are numerous cases which are neglected or attempted to be cured by quacks. The explanation is that there is more precocity now in the matter of puberty which is taken advantage of for consummation and there is less vitality owing to the new conditions of life adverted to. Quite recently I know of a case in a well-to-do family where the girl well below 18 and ill-grown and puny in appearance was consummated much against her parents' wishes by the insistence of the husband, a boy of 19 reading in the college classes, with rather over-stimulated sexual desires. The girl ever since has been unwell and weak. She had an attack of typhoid and recovered from it and afterwards developed some throat trouble. She looked anæmic and in low spirits and when her father took her away from him for a change and rest, the husband and his parents compelled him to take her back to them at once and gave him great trouble on that

account. There are numerous cases in families high and low where the husband exercises his 'rights' callously and with indifference to the girl-wife and she is unable to take care of herself in his house or elsewhere. On this matter the conscience or sense of the community has been dulled by long and customary indifference to women's rights and is positively cruel and unsympathetic. Any girl whose parents attempt to protect her from such situations or from early consummation get into hopelessly bitter relations with the husband and can hope for no sympathy from the community whose members, educated or uneducated, will generally support the husband and his "legal rights" as they conceive them. The law is uncertain and doubtful and demands positive proof of cruelty which is very difficult. On the other hand the cases of numerous deaths of girls due to early maternity or abortion do not stir any but a passing thought as to the causes and are considered as a matter of course.

(vi) All these are the indicia and the results of a thoroughly wrong attitude to the weaker sex, an attitude which in other countries has become a thing of the past but in India has become latterly accentuated and sharpened. Even in Afghanistan the ruler by a stroke of the pen desires to abolish polygamy; in Turkey Kemal abolished it a few years ago. The rage-long subjection of women to man's selfishness and egotism is wearing away everywhere but the process has been very slow and obstructed in India owing to the peculiar political and social conditions.

(vii) It is because we don't have a ruler who is in touch with the people and will bring about wholesome reforms by his influence and because the political conditions allow the growth of even noxious and perverted opinions and practices which are condemned throughout the civilised world—such as child marriage and child motherhood—it is because of such conditions that legislation is imperative and the reform cannot wait for public opinion which may never come or may come only after very great evil and mischief have been done. I consider that from a humanitarian point of view as well as in the interests of the community girls below 16 should be protected from sexual life.

(viii) The chance of reform from within is small also because Hindu Scripture and philosophy have been perverted in aid of man's selfishness towards the other sex. "The wife must look to the husband as her god or deity in this world and whatever he does she must recognise as her luck or lot, and should not complain. Children are her good luck and reward and the more the better. Devotion to him is her only duty and even if he happens to be a wicked or cruel husband, it is only her fate and cannot be mended." These doctrines have been sedulously and with the help of Puranic stories instilled into the minds of all. The scores of girls of 14, 15 or 16 who are taken to maternity hospitals for treatment and the many more who silently suffer in their homes from sickness and cruelty are the victims of this philosophy.

(ix) South India is a stronghold of Brahmin orthodoxy, which means simply that South Indian Brahmins have been less exposed to the impact of civilising influences. There is no chance of any large movement among them for reform in the immediate future though there may be here and there stray revolts from existing practices attended with social obloquy and persecution. Legislation is therefore urgent and imperative.

4. Yes. The legislation of 1925 has stirred thought at least among the educated people and to some extent discouraged early marriage and consummation though breaches of the law may occur here and there. There is no doubt that legislation has a desirable effect especially as other instruments for reform are absent or ineffective in the peculiar conditions of the country. However there has not been sufficient lapse of time after 1925 to enable results to be ascertained with precision.

5. Between 11 and 13 in the Brahmin community. I believe it is not materially different among the middle classes in the other communities.

6. Cohabitation before puberty is not common because girls attain puberty early enough. But—

- (a) There have been cases within my knowledge though they are rare where husbands have had relations with their wives before puberty when the former happen to be much older than their wives and have not had the patience to wait. I know of three such cases at least among respectable families.
- (b) Cohabitation soon after puberty is common.
- (c) Before 13 it is not very common, but there are many cases. Cases do not go to the Courts.

7. The practice is customary and believed to be the normal course, and is often attributed to a religious injunction that within 16 days of puberty the girl should be consummated. The injunction is not generally considered so mandatory that any penalty will result but is accepted as the desirable or meritorious course.

8. In present conditions, whatever it was before, puberty is not a sign of physical maturity to justify consummation.

10. 16 is the lowest.

11. There are numerous cases but the people are generally ignorant about (a) whether injury has resulted, (b) its causes. The laws of health and healthy living are yet insufficiently appreciated even by the most educated and it is no wonder that people who don't lead healthy lives themselves or take care of their own health are indifferent about the health of others committed to their absolute charge and custody. Generally a husband does not consider his wife to be so unwell as to need rest or treatment until she has an absolute break-down. Even if he does so, he will rarely consider the illness to be due to early consummation or sexual stimulation before her time and in excess of her capacity. He will fight stoutly against such inferences. Doctors rarely have the courage to tell the husband the truth but they will simply prescribe medicines or tonics. As for instances anybody going round the residential quarters of the so-called upper classes can see many cases of weak, stunted and sickly young girls and women.

12. Early marriages and maternity cause numerous deaths and breakdowns and absolutely disable the women from any physical or intellectual progress. They are mere dolls all their life.

13. There is a growing feeling, before and after the discussions of 1925 and especially after Miss Mayo's book,—that things should be amended; but reactionary forces occasionally assert themselves.

14. Women unfortunately are not organised so that their general opinion cannot be ascertained; but in individual cases mothers even in orthodox families lament the cases of their daughters when the latter suffer. They have no social intercourse with other women or liberty of thought or action which would give opportunities for the growth of opinion among them.

17. The maximum punishment for marital offences may be 2 years' imprisonment with or without fine.

18. No consent or complaint of the parents or others should be considered as essential for the prosecution. Any detected breach of the law should be punished like other crimes.

19. No additional safeguard is necessary or practicable.

20. I consider that the law raising of the Age of Consent will be evaded in many cases unless the age of marriage is also fixed at or about the same age. If the Age of Consent is raised to 16 the marriageable age must be fixed at least at 14 to prevent opportunities for evasion. Another supplementary legislation necessary to make the law as to Age of Consent effective is a declaration that the parents of the girl where they live are her guardians till the age of 16 or 18. This is most essential as at present the husband can demand the person of the wife from her parents and evade the Age of Consent Act. I consider that fixing the marriageable age at 14, the Age of Consent at 15 or

18, and making the parents guardians will not be really obnoxious to or outrage public opinion though a small section posing as the orthodox one will resent the legislation. As between the two, raising the Age of Consent will be less unpopular than fixing the age of marriage but I apprehend, will be ineffective in many cases unless the marriageable age is also fixed near the other limit. The change of the law as to guardianship will most effectively secure the object of and supplement the Age of Consent Act.

21. The above pieces of legislation are imperatively needed. Progress by means of education and propaganda will be very slow and uncertain in view of the great opportunities for unhealthy growths of public opinions in this country. Meantime the neglect of our women and the community which they breed would be unpardonable and will cause irreparable harm.

Written Statement, dated the 10th August 1928, of Mr. J. NARA-SIMHULU, L. M. & S., Medical Practitioner, Civil Lines, Bellary.

1. So far I know, there is no strict enforcement of the law as to the Age of Consent, as contained in Sections 375 and 376 specially with reference to the breaches of it in marital life. I do not mind of extra marital cases; as such there is no room for expression of any opinion as regards the working of the law.

2. In these parts of sexual intercourse with a wife of even 11 years in some cases and 12 and 13 in many cases is very common. It is more so in the interior of the districts where advanced views do not obtain, especially among Brahmin and Vaisya Communities wherein the so-called marriages, i.e., sacred betrothals are always pre-puberty. It is very disheartening to see mothers of 12 or 13 years at times. There is ample justification for enforcing the present law or even better an advance of the present law.

3. Crimes of rape among the married is common, as cohabitation takes place at 12 and 13. My experience is limited to married cases, although I have a meagre knowledge of cases outside them. I have not known any case brought to book under the law for rape, although scores of cases could be booked. The existence of such law is not made to be known at least in marital cases although there may be some prosecutions for rape outside the married cases. Perhaps there is a move towards raising the age of girls brought up for immoral purposes.

I suggest that the law be widely published in all the vernacular dailies, district gazettes in local vernaculars, and the local authorities specially of villages be strictly instructed to promulgate the law and keep strict vigilance to detect any breaches of the same. The cases that are brought for trial under this law may be openly tried and the proceedings cause to be published in all district and local dailies especially vernaculars, so that the sentences may act as deterrent to others.

4. The law has been a dead letter here and as such has had no effect in doing anything as regards the part (1), (2), (3) of your query. I have already suggested the steps effective in my opinion, in my answer to question No. 3, although it is rather more difficult to detect cases in married life.

5. About 12 to 13 years. It differs in different classes. The labouring classes especially of the villages, being outside the influence of the modern existing conditions of social life attain puberty a little later, say, 14 to 16 years and the upper Hindu and Mahomedan classes even a little earlier.

6. (1) No.

(2) Yes, it is very common in cases of 2nd, 3rd or 4th marriages of males after the loss of their wives, the consummation (i.e., cohabitation) being arranged for within 16 days after the attainment of puberty. In non-marital cases, the expectation of a rich client induces the act soon after puberty.

(3) Yes, in both cases the age of the girl is no consideration, the main fact being the attainment of puberty.

None, out of marital cases at any case. I have no knowledge of the non-marital ones.

7. Yes, to a certain extent, but in many cases these hurried consummation are the outcome of the desire of the girl's parents to act up to the wishes of the girl's husband and his parents, whose property they consider the girl to be after (betrothal or) marriage, as we call it. There is not much of a religious authority but of a custom which is more powerful than any religious injunction.

8. Garbhadan ceremony is performed in the higher castes of Hindus, Brahmins and Vaisyas. It is always after the consummation of the marriage. In these classes as the marriage is pre-puberty, the garbhadan is always after puberty. Generally it is done within a year or two and if the girl is well-developed for her age, and the boy aged, even after six months. As I stated above in the case of 2nd or later marriages of males, it will be even within 16 days of attainment of puberty, although such cases are not rare even among first marriages.

9. No. I think a clear four years is absolutely essential for the girl to attain her full development to be fit to stand the strain of married life and maternity and to give forth healthy progeny.

10. About 17 or 18 years.

11. Yes.

Mothers of about thirteen years becoming wrecks of their former selves and their children under-developed and subjects of malnutrition and other diseases of bad feeding, because mothers are strained by their premature wifehood and motherhood, although they are socially rich and in a position to command all comforts.

Mothers of 12 or 13, falling an easy prey to consumption because of the strain of maternity and married life.

Girl-wives of 13 or 14 suffering from various agonising ailments of the generative system brought on by premature wife-hood and maternity.

Young girls showing acute neuroses due to lack of vitality brought on by wife-hood.

12. Yes—for both, because in addition to the former disability of the girls physically, their intellectual training is completely stopped after puberty. The male side also suffers badly both intellectually because of their taking up the responsibility of the married life before they are normally developed physically and intellectually and depriving themselves and the country at large the benefits of fully developed body and brain.

13. Yes—in educated classes.

14. Yes, because of the force of custom and the fear of social ostracism and tyranny.

15. I have no experience.

16. I do not think so.

17. Yes.

In marital offences.—Punishment to be a deterrent fine instead of imprisonment as imprisonment makes the offenders social outcasts. In cases of poverty simple imprisonment for a nominal period.

In non-marital cases.—Punishment may be more severe, both in the matter of imprisonment and fine, because it is a case of luxury and lust.

18. Yes. The details I leave to better heads. My only suggestion that the society is all powerful and the offenders are more helpless victims in many cases. Until the society realises its responsibility and leaves to look upon deviation by custom as healthy departures, the infliction of punishment may be made to be felt by parents, etc., who are greatly responsible for the offence.

19. I don't know the existing safeguards.

20. Yes, because some communities have become so helplessly obedient to custom and religion, as not to be bold to postpone marriages till after puberty. In such cases the raising of Age of Consent will not interfere with the celebration of marriage but will affect the consummation of it which is more vital to the interests of the nation, especially of the communities where these woeful customs obtain. For communities where such custom does not prevail, either one to religious injunctions or to custom, the minimum age may be fixed advantageously.

21. I would certainly prefer at this stage to rely on strengthening the penal law to secure the object in view, because it will strengthen the hands of parents in postponing the marriage of girls, boldly braving the thousand boycotts of society and religion.

The progress of social reform by education and social propaganda is too slow for conservative people of our stamps, so much so I fear the evil will have advanced too far before the benefit by this source can react on the population.

Written Statement, dated the 10th August 1928, of Mr. P. BAYAPPA REDDI, Bar-at-Law, Anantapur, Madras Presidency.

1. Yes, as the Age of Consent fixed is too low.

2. The Age of Consent at present fixed in marital cases is 13 years and that in extra-marital cases is 14. At the age of 13 or 14 a woman who is a mere girl, is incapable of giving an intelligent consent with a due realisation of consequences. She can hardly be said to have reached the age of discretion as much less to exercise her discretion. These circumstances justify, in my opinion, making an advance on the present law as regards Age of Consent.

3. Crimes of seduction and rape are not frequent in this part of the country. The amendment of the law made in 1925 has not succeeded in preventing cases of rape outside the marital state as no cases of rape are committed on women under 14 years of age. I would propose to raise the Age of Consent so as to bring the offenders to book.

4. The amendment of 1925 raising the Age of Consent within the marital state to 13 years has not been effective in protecting married girls against cohabitation with husbands within the prescribed age-limit—

- (1) by postponing the consummation of marriage, or
- (2) by stimulating public opinion in that direction, or
- (3) by putting off marriage beyond 13.

The consummation of marriage and the celebration of marriage under 13 years of age mostly take place in the Brahmin and Vysya Communities and as consummation takes place in most cases with the connivance of the parents of the parties concerned, it is not possible to detect such cases and bring the offenders to book. To prevent early consummation the only effective course, in my opinion, to raise the marriageable age of girls.

5. The age at which girls attain puberty in this part of the country differs not so much with different castes and communities but with different classes of society and with the way in which the girls are brought up. Among higher classes of society where the girls are indulged in all sorts of luxuries without proper physical exercise, they attain puberty towards the close of their 11th or during their 12th year in normal conditions of health. In the middle classes of society where the girls will have to attend the kitchen or outdoor manual work to some extent, they attain puberty in their 14th year or 15th year but among lower classes where the girls are often obliged to work for their living, the minimum age at which they attain puberty is sixteen.

6. Cohabitation is very rare, if at all, in this part of the country among any class of people before puberty; but it is common among all classes soon after puberty except in very rare cases where the parents of the married couple are very enlightened and advanced. Cohabitation is only possible and often takes place before the girl completes 18 years among higher classes of society. None of these cases came to Court simply because the parents of the parties concerned, who are expected to know the facts, connive at these offences and do not naturally care to take them to Court and the poor young girls, who have no knowledge of the state of law and have besides none to champion their cause, have consequently to put up.

8. Among the middle and upper classes of society Garbhadan ceremony is usually performed in this part of the country and it coincides with consummation of marriage. It is performed only after attainment of puberty and, as a rule, within a year after it and very often within 6 months.

9. I do not consider that attainment of puberty is a sufficient indication of physical maturity to justify consummation of marriage except among lower classes of society where the girls attain puberty rather late. I consider that with due regard to early development of womanhood, 16 years will be the proper age at which a girl's physical development will generally be enough to justify consummation without injury to her own health and that of her progeny.

10. In my opinion it is only after a girl has passed her 16th year that she would be competent to give an intelligent consent to cohabitation with a due realisation of consequences. It is very rare that a girl can attain the age of discretion and exercise her discretion properly before the completion of her 16th year.

12. I consider that early consummation and early maternity are mainly responsible for high maternal and infantile mortality and also for physical deterioration of the people.

14. Women except in advanced society in this part of the country no doubt favour early consummation of marriage for their children but it is all due to ignorance and to a certain extent to Brahminical influence.

16. The difficulty or margin of error in determining the age would to a certain extent be produced if the Age of Consent is raised to 14 years or above.

17. No separation is necessary.

18. No difference in procedure is necessary.

20. In so far as legislation fixing the minimum age of marriage goes to the very root of the evil and prevents rape in marital cases, I consider that this is likely to be more effective than penal legislation fixing a higher Age of Consent which is only deterrent in its nature. Except in unenlightened sections of Brahmin and Vysya communities, legislation fixing the minimum age of marriage is in entire consonance with public opinion in this part of the country.

21. In many advanced countries of the world the object in view may no doubt be achieved by social reform alone but in a conservative country like India, with 90 per cent. of her population illiterate and with deeprooted and meaningless customs, I am of opinion that by social reform alone the object in view cannot be secured. I would, therefore, prefer to rely on the strengthening of the penal law rather than on the progress of social reform which has not been making any headway.

**Written Statement, dated the 10th August 1928, of Mr. A. PARASU-
RAMA RAO GARU, M.L.C., Mandalur, Cuddapah District.**

1. There is no dissatisfaction with the state of the law as to the Age of Consent as contained in sections 375 and 376 of the Indian Penal Code among

the public generally; because offences of such nature are very rare and even if they do occur they are not always brought to light. However, when a question is raised and rightly too, as to the Age of Consent with regard to offences contained in the above two sections it is but meet that the opinion of the thinking public is obtained. As far as my knowledge goes the thinking public desire the Age of Consent should be raised to 18 years in the case of girls who are not married, because before that age they may not be in a position to realise the gravity and the consequences of their act. Therefore this desire may fairly be taken to be the index as to the state of feelings of discontent among the people who form the brain of the population.

2. My answer to the first question shows that the present law as to the Age of Consent should not be retained as it is.

The present law should be modified by raising the Age of Consent of girls to 18 in the case of those who are not married and 15 in the case of those married. My reasons for such a change will be found in the course of my answers to other queries.

3-4. The crimes of seduction or rape are not frequent in the south. The only course that attaches itself to this part of India is the existence of a practice by which a class of unfortunate girls are dedicated to the temples at an early age when they have absolutely no idea of the life that is forced on them and the resulting consequences. When still young and utterly immature they are inveigled into an objectionable and immoral life by allurements of jewellery, fine dress, etc., which, children as they are, do not realise in their full import and hence the effect on their future lives is miserable. These girls are wheeled into this way of living by women of the worst kind of depravity for their own selfish ends. They realise rather late in life the miserable condition of their lives, when they show a readiness and eagerness to marry and lead a happy matrimonial life. But unfortunately there would be none among the other sex offering to marry these fallen women and so the pleasure of married life are denied them. It is to avoid such a calamity I heartily support a measure which would raise the Age of Consent of unmarried girls to 18 at which age I believe they will be in a position to judge for themselves as to the kind of life they would like to lead. There has been opposition in some quarters, of course, from interested quarters, to this view and they think that the dedication of girls to temples is sanctioned by religious texts and it is sheer blasphemy to interfere with these sacred injunctions. I should make bold to say that those who take shelter under such injunctions have absolutely no reason on which they could base their contention and they do not care for the moral depravity such a course brings upon a class of human beings whose interests as such every one is bound to protect. No religion, however, high can sanction an immorality of this enormity to be perpetrated in its name. Supposing there is some such reference in any of the religious texts, the interpretation of such texts if properly made, would certainly avoid the encouragement of such a life. The term applied to such dedicated women is "Devadasees". I think if woman who has attained the age of discretion and with perfect discrimination takes the responsibility on herself of leading a life of celibacy and remains self-severe, devoting all her life to the service of God, there should be nothing wrong. She would be held in high veneration by the public. But if the term "Devadasi" is made a cloak to cover all the immorality and licentiousness found in women I should at once say that we should have none of them. Gods will certainly go on merrily and happily without these Devadasees. So much for the unmarried girls.

As for the Age of Consent for the consummation of married girls I should like to put it at a much lower age but at the same time guard against the evils of early consummation. I would, therefore, like that in case of married girls Age of Consent be safely put down at 15. The age at which girls generally, I mean girls who are brought up under average conditions, attain puberty is between the ages of 13 and 15. This I need not say, depends on various causes and conditions and I think it would be out of place to detail

them here. The custom that is prevailing among other classes is to marry their girls before they attain puberty and while yet young and not able to judge for themselves. I am one of those who hold a conservative view on the question of giving complete liberty to girls in the matter of selection of husbands before they reach the age of 18. Even at that age I am not sanguine they would exercise their discretion properly and with due regard to the interest and risk involved in such choice. But at that age, I believe, they may be credited with that sense of responsibility if they are properly trained from the beginning and right kind of education imparted to them. The knowledge that marriage is a sacrament and intended to carry out faithfully and religiously injunctions of the creator for the purpose of propagation must be impressed upon them. They should not be carried away by petty considerations of handsome appearance, fashion and other trivial matters. They must understand that character and heredity are two prime factors that ought to weigh with them in the exercise of their choice. If such a teaching is inculcated to them and the elders who are interested also help them in the matter of choice with a view to avoid pitfalls I should say in majority of cases, there would be a happy matrimonial tie. To imbibe such ideas girls must be sufficiently aged as I believe 18 years is. But the custom has so much hold on the higher classes that it is not possible in the near future to bring them round to agree to marry their girls at the age of 18, i.e., decidedly after puberty.

I should propose that the marriageable age may without any opposition be fixed at 14 in the case of a girl and that should only be a mere betrothal. As I already stated, the consummation of the marriage must be postponed till after the girl attains her 15th year. In cases where marriage takes place between a girl and a boy of proper marriageable age, there may not be much difficulty in strictly enforcing consummation to be put off till after the 15th year. But the difficulty arises only in cases where a man marries a second or a third time and pants for the company of a wife as early as possible. In such a case there is every chance of the husband breaking the law and having the consummation too early. No doubt the custom of giving in marriage girls who have not attained puberty even to widowers is hard. But we cannot be making provision in law for all contingencies. When a widower chooses to marry and that a girl of 14, he is bound to respect the law and wait for consummation till after she attains 15. Otherwise his choice must fall on a girl of more than 15. I believe there may not be much opposition if 14 for the betrothal and 15 for the consummation is taken as proper ages. Of course, there will be a howl from the orthodox community that unless a girl is married at her 8th year it cannot come under the category of "Kanyadanam". I don't pose to know much of these religious texts bearing on the subject except what I have heard from others. I don't think it is necessary for me to refer to these texts as they in practice have been reduced to dead letters. There have been cases of marriage of girls certainly after the 8th year becoming common now and there are still girls of 15, 16 and 18 remaining unmarried amongst the community wherein the rule of marriage at 8 years is held in veneration. For all outward purposes some one orthodox person of that community stands upon the platform and makes a harangue that it will be a deliberate violation of the sacred texts to marry grown-up girls while he himself has either officiated or attended marriages in which either grown-up girls or post-puberty girls are married. When the custom is gradually wearing itself away and the society either winks, connives or actually encourages marriage of girls both before and after puberty I fail to understand why we should care for the opinion of orthodox people in this matter. It is unnecessary that public opinion should be stimulated because circumstances have so worked themselves up that persons who have imbibed the present day civilisation are prepared for the change. So there can be no difficulty, in my view, to enforce these principles upon the society as such a piece of legislation would be a great relief to the people who are for the change and who feel a sort of conjunction and delicacy to get over the objection of orthodox community.

5. As I have already pointed out, the age at which girls attain puberty differs not only in classes, communities and castes but depends mostly upon the conditions under which they are brought up. Among the higher communities girls have greater care bestowed upon them and the environments in which they are brought up are such that the time of puberty will be accelerated. Climate of course has much to do in the matter. So among the Brahmin community there are some cases of girls attaining puberty between 11 and 12. But this may be dismissed as something exceptional and not normal. Even in other communities the bringing of children has to a large extent influenced the age of puberty. Many of them aping the Brahmins have also been suffering under the above abnormality. The labourers and working classes are to a certain extent safe from this evil and I find that in those classes girls attain puberty at an advanced age at any rate not below 15.

6. This question I can safely answer in the negative as I have not come across cases of this nature. Nor any such cases have come to Court to my knowledge.

7. I have answered this question already (*vide* answers to 3 and 4).

8. Garbhadan ceremony is usually performed in this part of the country as it is one of the sixteen ceremonies which is enjoined by the Shastras to be performed. It is never done before puberty and the consummation of the marriage coincides with the Garbhadan ceremony. In cases where the old people of the household are anxious that the consummation of the marriage should take place early, it is done a month or two after the girl attains puberty. In generality of cases it is done about six months after.

9. I have adverted to this question already by stating that the signs of puberty sometimes appear so early as 12 in a girl and that without doubt is not an indication in her to justify consummation of her marriage. I have, therefore, suggested that the age at which the consummation of the marriage should be performed has to be raised to 15 by which time under normal conditions it would not either impair the girl's health or that of her progeny.

10. I have already answered this question.

11. I have not come across any such cases.

12. I think early consummation and the consequential premature maternity are to a certain extent responsible for high maternity and infantile mortality. These are not the only causes which contribute to the high rate of mortality referred to. Utter paucity of trained nurses in every place is an important cause for the same.

13. The educated classes who are able to realise the evils of early marriages are in favour of an extension of the Age of Consent in marital and extra-marital cases since the amendment of the law in 1925. The public opinion also is gradually developing this way.

14. Old women brought up amidst ancient traditions of marriages who regard that there is a religious merit in seeing their grand and great-grand-children playing before their very eyes favour early consummation of marriages. But even this class of women is fast vanishing in these days.

15. The fixing and determining the age of girls in connection with offences under Sections 375 and 376 is a difficult one and requires careful consideration and when such cases do crop up the girls in question ought to be scrupulously examined by competent and high-placed female doctors. No such case so far as I know has occurred in my experience.

16. I would like the age to be raised to 15 so that the margin of error in determining the age may be materially reduced.

17. I would like that the extra-marital offences should be kept apart and I don't like that there should be any change in the amount of maximum punishment.

18. I would suggest that the District Magistrate should be first approached with the complaint and that unless he directed the police to inquire into the cases within marital state the police ought not to have any power and with

regard to offences without marital state the present procedure might be allowed to continue.

19. The previous answer will be quite enough to meet the contingency suggested in this question.

20. I have explained that the minimum age at which betrothal could take place should be 14, consummation 15, and in cases where the girl is not married the minimum Age of Consent must be not less than 18. This will, no doubt, satisfy the public opinion, at least that of the thinking public in these parts.

21. Honestly speaking I would be the first to say that the State ought not to interfere in matters religious and social. But unfortunately orthodox opinion and the custom that has grown so strong is standing in the way of people who are convinced as regards the justice and the righteousness of the cause of the reform but are not able or have not the moral courage to carry out their convictions. As stated above these barriers are indeed fast giving way but if this reform is left to be realised by time it would not be in as short a time as the reformer would wish it to be. When people either through ignorance or through wrong interpretation of religious texts have followed certain marriage customs which are pernicious and prime causes of maternity and infantile mortality I should, though with the greatest reluctance, support the inauguration of a law which would avoid such a social catastrophe. In course of time, I fully believe, this law will be more respected than violated by the people, alive to the advantages thereof.

Written Statement, dated the 9th August 1928, of Rao Sahib M. YENKATAPPA, B.A., Deputy Superintendent of Police, Madras, and a Vice-President of the Southern India Brahma Samaj, Madras.

1. There should be no sexual intercourse with any woman below the age of 16. The same rule should apply to all—whether wife or no wife. A husband worth the name should be more solicitous about the welfare of his wife than a stranger, that commits rape for the gratification of his lust. No number of Sanskrit verses of holy antiquity will make a moral turpitude a justifiable act.

2. An advance on the present law is absolutely needed in the interest of the health of the woman and her progeny.

3. There are a certain number of cases, but I should say they are not very frequent *outside the marital state*. I do not think that the late amendment has had any appreciable effect.

4. The amended law had effect in all the three cases to some extent. The only step I would propose to make it more effective is to further raise the age to 16 years.

5. Between 13 and 14. In affluent and well-to-do families of middle and upper classes girls attain puberty earlier owing to their earlier physical development.

6. (1) Rarely.

(2) Yes.

(3) Yes, if the girl has attained puberty.

The usual custom is that cohabitation is permitted soon after the girl attains puberty and the consummation ceremony is performed.

These marital cases rarely come into Courts. The girl is in the husband's house and suffers all humiliation quietly.

7. It is the result of caste rules. Religious texts are unearthed to justify the custom—as all Hindu customs are supposed to be based on some scriptural authority. The penalty is excommunication.

8. In my part of the country the nuptial ceremony is called "Shobana Praatha" and it is usually performed soon after puberty. In families of progressive ideals, this ceremony is now-a-days put off for a year or two.

9. No. At least three years should elapse after puberty.

10. Never before 16. I should say the true realisation of consequences would come in only after the 18th year of age.

11. I particularly remember one special case. The husband had cohabitation immediately after puberty without waiting for any ceremony. The girl has had a number of abortions and when a few children were born alive, they died within 3 or 4 months after birth. The woman is childless now and has perpetual womb complaint and is in addition diabetic.

12. Yes, for high maternal and infantile mortality. The mother is usually very much emaciated, subject to womb complaints and frequent abortions, and gets old prematurely. Her offspring are puny and weak without any physical stamina for sustained exertion of any sort.

13. Yes, mostly confined to educated classes with progressive idea of social reform.

14. Yes, except those with progressive ideals.

15. The exact age of girls cannot often be ascertained. The registers of the Village Munsifs have to be searched for, and as these are not properly maintained, no satisfactory proof of age could be secured, except a medical certificate of age—which is hardly sufficient for purposes of conviction in a Court of Law.

I would suggest correct birth registration, and careful preservation of these records in Taluk Offices without destruction.

16. Yes. Physical development of girls (*e.g.*, formation of the breasts, hair on the pubes, etc.) after 14 years would be quite perceptible.

17. No. The same punishment, but marital offences, which usually occur in the husband's house, can rarely be proved. A woman, who charges her husband, practically gets a divorce. In higher classes of Hindu society, where remarriage is prohibited, this is tantamount to life-long widowhood.

18. If marital offences come into Court, they should be tried in camera.

20. The fixing of the minimum age of marriage is by far the better of the two. It would prevent early marriages and would give less scope for marital offences, which are so difficult to be proved.

21. I rely more on progress of education and social reform. But I am for fixing the minimum age for marriages. I would suggest penal legislation for the violation thereof.

Written Statement of Mrs. BHAGIRTHI SIRI RAM, Adyar, Madras.

1. There is intense dissatisfaction among the women and the young girls.

2. It is absolutely essential that an advance must be made on the present law, as it is most ineffective in its operation, as the girls cannot decide for themselves at the ages of 13 and 14, they are still almost children.

3. Frequent enough. The amendment of 1925 has not diminished the number of cases of rape or improper seduction of girls for immoral purposes. The girl is still at the age of 14 in a tender informed condition and she has no power or will of her own, is incapable of judging for herself. To make the law more effective the age of consent outside marriage must be raised to 18 years, and the existence of such a law made known to the general public. Now, people do not even know that there is any such law.

4. The amendment of 1925 raising the age of consent to 13 within marital state has *not at all* been effective, in any of the 3 ways mentioned. Married girls, though very young, come into contact with their husbands a good deal and very often live in the same house and the husbands always have

the power to force the girls and very few girls get the protection of their parents in this matter. Hence, the law is a failure. To make it effective it is very important that the age of consent of married girls must be raised to 16 at least. I most strongly feel that the only way in which young girls can get protection is, to raise the marriage age to 16 years.

5. Among people who live in towns and those practising early marriages, girls attain puberty usually between 10 and 13 years. The age varies among girls who live in country parts and villages from 11 to 14, sometimes even 15.

6. (1) Not common but there are cases.

(2) Always soon after puberty.

(3) Very often before the girl completes 13 and hardly any cases come to court. It cannot be expected that parents would bring their sons-in-law to court nor is there anyone else, in a position to bring it to court.

7. I am not aware of any religious injunction for early consummation of marriage and there is no prescribed authority or penalty for its breach. It is generally admitted that there is no such religious injunction. It is only an evil practise of long standing, thriving under the mistaken idea that it would keep men and girls straight.

8. Almost always, soon after puberty and anterior to consummation of marriage, this ceremony is commonly performed. There are occasional cases where this is performed before the attainment of puberty, and consummation takes place immediately, where the man is impatient to wait for the girl to attain puberty, especially when it is his second marriage.

9. Attainment of puberty does not at all mean physical maturity, as girls attain it at very early ages and it is a common knowledge of everyone that girls still remain undeveloped both physically and mentally. Usually girls are physically well grown in this part at about the age of 16 or 18.

10. Eighteen is the minimum age, in which a girl can give intelligent consent with realization of consequences.

11. I know definitely some cases before puberty and immediately after, under 13 with injury to the girls' health and effecting their progeny. Besides, I have come across several others where consummation has taken place before girls are fully grown affecting their health and their children permanently, resulting in numerous miscarriages and infantile deaths. Lots of such girls are affected by T. B.

12. There is a very strong public opinion among women and also a large section of enlightened men, favour the raising of the age of consent both marital and extra-marital, chiefly the young girls and boys are entirely in favour of it, and this feeling is very general.

13. No mother wants the early consummation of her daughter. She has strong opinions about it but is powerless to resist, because of the present social conditions and the pressure from the girl's husband's side.

14. Usually ages of girls cannot be found out correctly and there is plenty of scope to give a false age. I would suggest a stricter and better registration of births as well as marriage registration, and production of birth certificates at marriage.

15. It would reduce the error in determining the age, if the age of consent is raised (above 14) to 16 and 18, as at the age of 16 or even more at 18, the girl herself will be able to speak of her own age and she is more developed and one can judge more easily even from physical appearance.

16. I think the offences for marital and extra-marital must be dealt with separately and the present punishments seem to be all right.

17. Both trials should be conducted in camera, before a judge of high standing, and not in a public court.

18. There must be both. The age of consent must be raised to 16 and also the minimum marriage age must be fixed at 16 by legislation. Public opinion is in favour of raising the age of consent and not so much for

legislation fixing marriage at any particular age. I strongly feel the only way which can protect children from marriage and from child widowhood and motherhood is to fix by legislation the marriage age at 16 and marriages under that age, must be penalised, the parents concerned being punished severely, rather than the boy concerned. If Government will boldly do this, public opinion will change in no time and the reform can be made quite effective.

21. I would advocate both, strengthening the penal law and also education and social propaganda. Penal laws must be translated into the vernaculars of each province and distributed to the common people, so that, they may know the existence of these laws.

Written Statement, dated the 8th August 1928, of Mr. S. JESUDASON, F.R.C.S.E., Medical Officer, The Ashram Hospital, Tirupattur.

With reference to your letter No. 42-A. C. C. of the 24th July, I shall only touch upon such of the points on which I feel I could speak with a certain amount of confidence from experience and personal knowledge. As you do not preclude opinions that border on Mr. Sarda's Bill, I wish to state frankly at the outset that I am altogether strongly in favour of the State prohibition of early marriages. By "early marriages" I mean marriages of girls under 16 and boys under 22. I should have suggested 18 for girls and 25 for boys, but it may be impracticable. A normal, healthy human being may continue to grow until the age of about 22, and early marriages will retard that normal, full physical development. I favour the complete prohibition by the State of early marriages because raising the age of consent does not solve the problem. Which father-in-law or guardian will ever think of prosecuting a young man for attempting cohabitation with his own legally married wife even if she is under the legal age of consent? Besides even outside marital life, the fear of disgrace will prevent parents from taking actions against a man who has been attempting to rape their young daughter.

Now I shall try and answer some of the questions:—

2. Outside marital state the age of consent should be at least 18 as a girl is too young below that age to fully realise the consequences of cohabitation. Also because she will suffer physically should pregnancy supervene. In marital state, for reasons already mentioned, any law will be useless to prevent cohabitation.

3. Usually such crimes are not made public, but I know of one case here recently. From a purely legal point of view the prohibition of child marriages (child marriages tend to make the more matured husband go astray), the prevention of the employment of young girls along with young fellows in places and under circumstances favouring seduction, may help.

4. No. I had recently to treat a married girl whose parents said she was only 14 years of age. She had given birth to a child which died and she herself was suffering from consumption developed after confinement. She was in a very feeble condition. Prohibit early marriages.

5. Usually between the ages of 13 and 14 as far as I know there is not any difference.

9. No, certainly not. Because growth continues after puberty and a girl is not physically fit for consummation until she is 18 years of age. From purely a medical man's point of view, I should say she ought to be 20.

10. About 18.

11. I have already quoted an instance in answering question No. 4, of a girl of 14 developing consumption after child birth. The baby is dead and the mother is in a precarious state of health.

12. Yes, I do.

14. I know of an instance where the mother does not permit her son-in-law to stay with her daughter as she considers her daughter too young for cohabitation.

20. No. Because people would prefer a law prohibiting early marriages than a law interfering with what might be regarded as a purely private, personal and domestic affair.

21. Both are equally necessary. The law will help forward social reform and vice versa.

Written Statement, dated the 7th August 1928, of M. R. Ry. M. YEDACHALA IYER, Avl., Public Prosecutor, Chingleput.

1. I do not know of any dissatisfaction. I am of opinion that very few people have bestowed any attention on this question.

2. I am of opinion that an advance should be made on the existing law. Rape is perhaps the most heinous offence. I would say that it is more heinous than even murder. The offender in such a case should derive no advantage from the age of the girl ravished. There is not much difference between twelve and thirteen. In many cases, girls perhaps consent ignorant of the consequences. My opinion is that only a girl of 15 years and over that may be expected to realise the consequences of consenting to be cohabited with. I would ignore the fact that girls below the age of 15 generally live with their husbands in this country and even become mothers. I should suggest that the age of consent in cases other than of rape by husbands should be raised to 16. I am quite sure that even if the age be so raised, no serious thought is likely to be bestowed on the raising of the age.

3. I do not think that offences of rape are so common as seduction. To my knowledge there has been no material reduction or prevention of cases of rape or seduction since the raising of the age of consent. The remedy lies in hunting up persons male and female who live on such offences. In every town of any importance, such people are to be found leading astray innocent girls who are not carefully looked after at home. Not only should the people in charge of the girl be more careful about the girls' associates and acquaintances but persons of ill-repute should be hunted up and promptly brought to book. All brothels and houses of ill-fame should be carefully inspected by a special staff, if necessary, and a deterrent punishment inflicted on the persons carrying on this kind of trade. Girls are easily tempted into bad ways by such persons who ostensibly look very respectable. I am conscious that the task is difficult but this is the remedy that suggests itself to me.

4. I do not think it has had any effect. Generally consummation of marriage takes place within six months and in some cases a year after puberty, be the age of puberty what it may.

(2) As I said already, public opinion on the question seems to be nil.

(3) Marriage is not put off beyond 13 for this reason. Poverty and the extravagant demands of bridegrooms and the want of boys suitable in the eyes of the girls' parents are the causes why marriage is postponed beyond thirteen.

5. Generally between 12 and 13 and some cases between 13 and 14. This differs in certain classes. In the more civilised classes puberty is attained earlier than in other classes generally.

6. (1) Not that I know of.

(2) It is not common. But the unfortunate practice of giving away young girls in marriage to aged persons tends to cohabitation soon after puberty.—The husband insists on taking the girl and living with her soon after puberty. But such cases are not so common.

(3) This also is not common but as I said above, consummation takes place generally within a few months after puberty. None of such cases come to Court.

7. I do not know of any religious injunction for the early consummation of marriage either before or at puberty.

8. Among Brahmins, what is termed a nuptial marriage is celebrated but this generally is some time after puberty. This is the consummation and the Garbhadanam is performed only then and not before. I do not know of other communities but in communities which celebrate post-puberty marriage, the nuptials are celebrated along with the marriage.

9. No, I would suggest that sixteen years would be a proper age for consummation of marriage though in exceptional cases. Girls may be physically mature for consummation earlier.

10. In answering question (2) I have said that the lowest age is fifteen.

11. No.

12. Yes. I do not think there can be any two opinions about this.

13. Not that I know of. The agitation is only in regard to raising the marriageable age.

14. They do. They seem to think that they have no responsibility for the welfare of their girls or their conduct after marriage. The moment the girl attains puberty the mother and the elderly females insist on the girl going to the husband as early as possible. They think that the husband should be the person to be entrusted with the chastity of the girl and they desire to get rid of all responsibility. This can be remedied only by education and social propaganda.

15. Difficulties are sometimes experienced in the border line cases. Registration of births with sufficient identification as to the number of the child may be effective. At each birth, the number of children born of the woman, the years when, and how many and which of them are alive should be carefully registered. Such registration should be made compulsory with severe penalty for its breach. At present by merely saying "male or female" in the particular column, it is not easy to find how many were born before and who live, etc.

16. I am of opinion that the remedy I suggested in answer to (15) is the more effective than the raising of the age to 14 or more.

17. Yes. For extra-marital offences, the punishment prescribed in Section 376, Indian Penal Code, would be enough. For marital offences, since they would be rare and rarely brought to light, I would impose only a fine. I do not think that such cases call for imprisonment, especially now, when young men may be expected to understand the consequences of committing such offences, apart from the punishment that may be inflicted on them.

18. I think the existing procedure may stand in the case of extra-marital offences. In the case of marital offences, where the wife is not under 12 years of age, I would make the offence compoundable with the permission of the Court. I would say that such offences should also be triable exclusively by the Court of Sessions. I think that in cases where the wife is under 12 years, the existing procedure may stand.

19. In my opinion the existing safeguards are enough.

20. I am of opinion that legislation fixing the minimum age for marriage is more effective. It is so difficult to detect maritableness. Unless it is an extraordinary case which is brought to the notice of the medical people, in the vast majority of cases, it is not likely that the parties would complain or give information of such offences. I do not know, if either would be in consonance with public opinion in this part of the country. People here are up against any legislation penalising marriage before the minimum age. Perhaps there may not be so much opposition to fixing the age of consent higher. But as in practice it may not be possible to detect such offences, I suggest raising the minimum age of marriage.

21. I think the end should be achieved by social reform and education than by strengthening the penal law. It is no use enacting a law which will remain a dead letter. Further in cases of marriage which Hindus regard as a sacrament and which, they feel, should be performed before a certain age (though this is not now strictly adhered to) it is not correct to penalise such marriages. This will be interfering with religious rites. Education and Social propaganda is the means to the end and with our girls getting educated in large numbers, there may be no trouble. Parents also should realise the evil effects of early marriage and bring round the opposition at home.

Written Statement, dated the 8th August 1928, of Rao Bahadur M. KRISHNASWAMI REDDI GARU, B.A., President, Chinleput District Board, Saldapet.

1. The law as to the Age of Consent as contained in sections 375 and 376 of the Indian Penal Code, is defective in two respects, in fixing the minimum age of a girl (i) at 13 in marital life and (ii) at 14 in extra-marital life for a man having sexual intercourse with her to be immune from law.

2. An advance on the present law is imperative in view of the following circumstances:—

(i) In marital life, the pick and flower of society is rapidly degenerating on account of the increase of child-mothers between 13 and 14 years of age, with a consequent deterioration of the physical stamina and mental calibre of the intelligentsia of the country.

(ii) In extra-marital life, the traffic on girls for immoral purposes is steadily on the increase blighting the youth of both the sexes to an enormous extent.

3. Rape is not of common occurrence in this District. Seduction of girls for immoral purposes however is common. This is further helped by the custom prevalent in certain communities of voluntarily dedicating girls to Temples as Devndasis, who take to prostitution as a side pursuit to augment their income from the Temples. The amendment of the law made in 1925 has not mitigated the evil. The existing law can be made effective only by enforcing a system of regulated prostitution. The Police must keep better vigilance, maintain a register of all public prostitutes and the minor girls in their charge, at least in the Cities and large towns, and the guardians must be held responsible for producing their wards for medical examination at regular intervals.

4. The amendment of 1925 has stimulated public opinion in the direction of postponing the consummation of marriage till after 13 only to a small extent. Consummation before 13 is however prevalent. The Brahmins of the District are the greatest sinners in this respect. With regard to the other communities, marriage a few years beyond 13 is the common custom. If the existing law must protect married girls in communities which favour pre-puberty marriage, the party to every consummation of marriage must be passed by a competent medical authority.

5. Girls attain puberty in this District between the ages of 12 and 14. The age differs in different castes and communities. Girls born in prosperous circumstances and living a life of indolence and ease in exciting conditions conducive to sex-precocity attain puberty much earlier than girls who have to help their parents in farm work and earn their living by the sweat of the brow.

6. Cohabitation before puberty has not received social sanction here. Cohabitation soon after puberty and before the girl completes 13 years is however common among the Brahmins, who not only tolerate but encourage

such practice. These cases do not at all come to Court as there is none within the community who will disfavour the practice.

7. The practice of early consummation before or at puberty is not common in this District.

8. "Garbhadan" ceremony is performed only by the Brahmins of this District. Nearly in all cases it coincides with the consummation of marriage. It is generally performed after the attainment of puberty. The interval varies from a few weeks to a few months, and in exceptional circumstances to 2 or 3 years.

9. I do not consider that the attainment of puberty is a sufficient indication of physical maturity to justify consummation of marriage. There must be an interval of at least 4 years between puberty and cohabitation in the interest of the prospective mother and her progeny.

10. A girl in India will be competent to give an intelligent consent to cohabitation with a due realization of consequences only after 16.

11. Cases of hurt done to girls by cohabitation soon after puberty occasionally occur. The age of girls in such cases varies generally from 13 to 15. But I am unable to furnish details of injury sustained as I am not a medical man.

12. I do consider early consummation and early maternity responsible in a large measure for high maternal and infantile mortality, and the steady increase in the number of neuropaths and consumptives.

13. Public opinion has developed somewhat in this District in favour of an extension of the Age of Consent in marital and extra-marital cases. The development is however confined only to the Non-Brahmin Hindus of the District.

14. Only the Brahmin women generally favour the early consummation of marriage for their children. The disposition of the women is also countenanced by their men. The life of leisure and ease they live, the obscene songs and rituals they revel in at the time of a girl attaining puberty, the indecent pictures and paintings that adorn the walls of their homes, the precociousness of their intellect and the consequent reflex on their sex life, and lastly the instinct in the blood are dangerous elements for the preservation of hymeneal virginity. Only on this account early consummation is resorted to as a means of maintaining social safety. Early consummation however does not find favour with the women of the other communities who form the vast majority of the people of this District.

15. Cases of rape committed on girls at the elusive age of 13 or 14 very rarely come to Court. Even then difficulty is felt only once in a way in determining the age.

16. The margin of error in determining the age will be materially minimised if the Age of Consent is raised to 14 or above, as by then the girls would have developed marked characteristics indicative of their age, which cannot be mistaken.

17. By a due sense of proportion, marital and extra-marital offences must be treated as different offences. The existing nature and amount of maximum punishment will suffice for offences of each class.

18. Trials for offences within marital state must be conducted in camera. And it must be left to the discretion of the Court to try the other cases in camera or in the open court.

19. I have no safeguards to suggest beyond those existing at present against collusion to protect the offender or against improper prosecution or extortion.

20. Legislation fixing the minimum age of marriage will be more effective than legislation fixing a higher Age of Consent for marital cases, as thereby the possibility of chances for offence will be completely precluded. This opinion of mine is in consonance with enlightened public opinion in the District.

21. Progress of social reform by means of educative and propaganda alone can achieve the end. But the people, especially the orthodox Hindus are so steeped in their conservatism that it will be an impossible task for propagandists to reclaim them from their age-long traditions except by putting them in fear of Criminal prosecution. Only in this respect the strengthening of the penal law will help to secure the object in view.

Written Statement, dated the 30th July 1928, of Rao Bahadur C. S. SUBRAHMANYAN, Mayavaram.

1. There is absolutely no discontent *re* sections 375 and 376 of the Indian Penal Code.

2. The above reason and the general improvement in the opinion of the public of ill consequences of early consummation fully justify an advance on the present law.

4. It has had a very salutary effect in postponing consummation and by stimulating public opinion.

(3) To some extent it has brought about putting off marriage. But people tied down by caste rules and customs cannot delay marriages.

5. Generally 14 is the age. In some 13. But 12 is exceptionally—The earlier age is found in the more leisured and affluent classes. In the working and unaffluent classes it is 14 and even higher.

6. Cohabitation—not before puberty to my knowledge.

Soon after puberty in some cases.

Rarely before 13 years.

No cases have come to Court.

7. No religious injunction is at the bottom of early consummation. It is the whim or the desire of the husband or his relations. It is simply obstinacy or thoughtlessness of the husband and his relatives. It is pure bunkism to say there is religion behind early consummation.

10. Sixteen is the earliest age at which a girl can give her consent realizing the consequences of her act.

13. The general trend of opinion among all classes is in favour of extension of the Age of Consent. The agitation is against the marriage Bill of R. S. Harbilas Sarda. In the reasons given against that measure there is an admission of the propriety of extending the time of consummation.

14. Women do not favour early consummation.

15—16. The determination of the age of a girl or boy so long as registration of birth is perfunctory is only a matter of probabilities. It is to some extent guess work. Raising the limit to 14 years would not in any manner aggravate the difficulty.

17. The differentiation must be maintained and the present contained within the marital state: sanction of the District Magistrate before prosecution is launched.

Outside the marital state the usual procedure:—Protection is more wanted for prosecutions within the marital state. It is there that factionism and party spirit might come into play. Harassment have to be produced as the act as only a legal offence and not moral (as understood by the people) for the intercourse is between husband and wife. No hard measure need be taken to prevent collusion. There will be for some time a certain amount of winking at.

20. Public opinion will not be antagonistic to the raising of the Age of Consent. Certain sections of the public are seriously antagonistic to the fixing of the minimum age of marriage. I would first raise the Age of Consent and after some years take up the minimum age of marriage. We carry public opinion then.

**Written Statement, dated the 7th August 1926, of Mr. P. KASTURI,
Secretary, The Young Men's Club, Dharmapuri.**

1. While we recognise that there is not a widespread dissatisfaction with the state of the Law as to the Age of Consent as at present, still we are sure the public will welcome a change in the Law as indicated in Doctor Gour's Bill.

2. Fourteen is too low an age. The girl may indeed understand the significance of the act of cohabitation, but undoubtedly she cannot clearly appreciate or realise the consequence of her act. Further the aim of positive Law and morality being the prevention of cohabitation between man and woman outside the marital state it is well that the Age of Consent is sufficiently high for the woman to clearly know the full significance and consequence of her act. For this fourteen is certainly too low an age and so we recommend 18 as the Age of Consent, outside the marital state. As Mr. Sarda's Bill (as it has emerged from the Select Committee) allows the marriage of girls at 14, we think it is enough if 16 is fixed as the Age of Consent within the marital state. The present Age of Consent within the marriage bond, viz., 13 is too low, but fourteen cannot mend matters to any appreciable extent, because a girl of 14 is not different appreciably both in point of mind and in body from a girl of 13. We are therefore very strongly in favour of raising the Age of Consent within the marital state to 16.

3. They are frequent but a major portion of them is not brought to light of any court of law.

4. (1) The amendment has not been effective directly, if consummation of marriage usually takes place after 13, it is certainly not because the law necessitates it, but it is due to other causes entirely different from, and totally unconnected with, the amendment of 1925.

(2) Public opinion has not been stimulated in that direction by the amendment. Many persons who want the Age of Consent to be sufficiently high are oblivious of the Law on the point. A fairly large percentage of the people who have had the benefit of Western education to hold reformatory views on the matter. But this is not due to the existence of the amendment of 1925.

(3) In communities where child marriage has been in vogue formerly very many marriages now take place after the girl is 13. But this is mostly due to the existence of other causes such as the difficulty in obtaining suitable bridegrooms. The minimum age of marriage must be brought in line or must be made very nearly to coincide with the Age of Consent.

5. Usually between 13 and 14.

Yes, it varies from 12 in a few families to 16 among certain classes.

6. (1) No.

(2) Not generally before, at least 6 months after puberty.

(3) Not common.

7. No.

8. Yes. It coincides with and it is not anterior to the ceremony.

Yes. It is performed invariably after the attainment of puberty. Six months and 2 years after puberty may safely be considered the two limits for the performance of the (Garbhadan) ceremony.

9. No. From the literature on the subject published from time to time on the subject in the Press, we note that attainment of puberty is not a sufficient indication of physical maturity to justify consummation of marriage.

We think at 16 that is 2 or 3 years after puberty, the girl's physical development may be considered to be enough to justify the full exercise of marital rights, without injuring to her own health and that of her offspring.

10. A girl of 16 may be considered competent.

11. A few cases have come to our notice, if called for, we will be too glad to furnish details.

12. It has been very forcibly brought to our notice by the enthusiastic supporters of Mr. Sarda's Bill that early consummation of marriage and maternity are responsible to an appreciable extent for high maternal and infantile mortality. And in many cases they have been productive of results detrimental to the physical progress of the girls and in a few cases, so it is alleged there has been a complete aberration of the mental system.

13. There has been sound development in favour of an extension of age for the Age of Consent, but it is not general. It is confined to certain classes who come to hold such views either because of liberal education or proper enlightenment, and in certain cases thanks only to bitter experience.

14. They do favour early consummation of marriage.

15. Yes, especially in cases where the offence is committed within the marital state, we apprehend, much difficulty would have been felt, because evidence which may be easy of reach in a case outside the marital state would be made difficult of obtainment.

16. No. But if it is raised to 16 we think the difficulty or margin of error in determining the age will be markedly reduced or minimised.

17. Yes. The nature and amount of punishment prescribed in the Bill are sufficient.

18. For sometime to come, cases within the marital state may, in consideration of the feelings of the woman, be heard in camera.

19. No.

20. We want penal legislation fixing the Age of Consent at 16 to be passed side by side with a legislation fixing the minimum age of marriage at the same age.

Public opinion is clearly not expressed and as such it is difficult to be assessed. But it may as an alternative to the latter legislation prefer the penal one.

21. Social reform by means of education and social propaganda must be augmented by Penal Law. But mere Penal Law without the sympathy and the support of the subject is quite undesirable. But considering the fact that there is a large number of persons, though not forming the majority, who are not prepared to rely solely on progress of social reform because of its inevitable gradualness, we advocate a legislation which must sooner rather than later, create a public opinion in its favour.

Written Statement, dated the 8th August 1928, of Khan Bahadur M. ABDULLA GHATTALA Sahib Bahadur, Advocate, Vellore, North Arcot District.

1. Section 375, Indian Penal Code, as it stands at present makes it penal (1) for a stranger to have sexual intercourse with a woman, with or without her consent, under 14 years (2) for a husband to have sexual intercourse with his wife with or without her consent below 13 years. With regard to the 1st part opinion is unanimous, persons of all shades of opinion, of different castes and communities agreeing that the proposed change from 14 to 16 is highly desirable, nay absolutely. I also share this view. The reason for my saying so is that a girl say of 14 or even of 15 cannot be said to have developed her powers of understanding to such an extent as to realise the enormity of the act to which she is a consenting party. A girl of 14 or 15 in the heat of passion and solitude of seduction may give her ready consent to the ravisher without weighing the consequences of her act. I do not at all think it is very difficult for a man if he has easy access to a girl of 14 or 15 to obtain her free and willing consent. The girl because of her tender age readily gives in. So the change from 14 to 16 is highly

desirable may absolutely necessary. (2) With regard to the 2nd part making it penal for the husband to have sexual intercourse with his wife with or without her consent if she is under 13 opinions differ. A large majority of enlightened public in the Hindu community feel that it is bound to have very good results and that the state should go a step in advance and the proposed change of Mr. Gour they feel is a step in the right direction. A small section of enlightened but orthodox members of the Hindu community and a large body of unenlightened and unintelligent and illiterate members feel that these vexatious restrictions as they call them on the husband is an invasion of their religious rights and liberties and their social customs and that these matters should be left severely alone to the good sense of the members of their community. I do not know much of Hindu religious scriptures and am not therefore in a position to say whether their argument is sound or not. I feel that if these matters are left to the good sense of the members of the community no good is likely to result therefrom. I have seen that a very large number of persons particularly in the Hindu community are keenly anxious to get their girls married at a tender age as they consider it a stigma which attaches to the girl if she is not so married. Proposed change is highly desirable.

The Muslim community is not much affected by the proposed change. As a rule in my community, so far as this Province is concerned girls are not married below 16 though there might be rare exceptions here and there. Islam does not prescribe any age-limit for marriage and the boys and girls of my community are at perfect liberty to marry at any age they please.

Section 376.—Transportation for life or imprisonment of either description for 10 years and fine in case of a stranger is considered proper punishment for this heinous offence. No court will inflict maximum punishment in every case. Circumstances of each case will be taken into consideration before sentence is awarded. There might be some cases such as Huree Myhee Mythee [18 Cal. 49 (1890)] which may demand extreme penalty of law and this section has got to make provision for them. The penalty in case of a stranger though at first looks excessive is not really so, and the general public do not feel aggrieved by it.

Sentence of Transportation for life or imprisonment of either description for 10 years and fine in case of a man having sexual intercourse with his own wife she being under 12 years is generally considered to be very excessive. The proposed change from 12 to 13 is welcome but the punishment should be somewhat lighter. Some girls attain puberty under 12 and in case a husband has cohabitation with his wife who has attained puberty but under the age prescribed under this section, he comes within the purview of this section which is generally considered too severe. I think imprisonment of either description for 7 years and fine will meet the ends of justice.

Imprisonment of either description for 2 years or fine or both in case of a girl not being under 12 years of age meets the acceptance of the general public.

2. (1—2) As the law stands at present it is no offence to have sexual intercourse with an unmarried girl or a widow with her consent if she is 14 or above 14. As I said in my answer to the 1st question powers of understanding of an average girl of 14 or 15 are not developed to such an extent as to say what is good and what is bad for her. That is the period when she is carried away more by impulse than by reasoning. A married girl of 12 is at the entire mercy of her husband. She must obey the behests of her husband to whom she is lawfully wedded and sexual intercourse at this tender age is likely to produce disastrous results on her health.

So I am of opinion that there is absolutely no justification for retaining the law of Age of Consent as it is and an advance on the present law is highly desirable.

3. Crimes of seduction or rape are frequent not only in this district but in other districts as well. It is not confined to low class people alone. It is prevalent even among well-to-do and richer classes. But very few of these classes come up before law courts. If it is among low class people in

village parts no body takes any note of it. If it is in richer classes, glittering gold and dashing currency notes hushes up matters. I consider that not even 10 per cent. of these cases come up before law courts. In spite of the amendment of law in 1925 raising the Age of Consent this game seems to go on as merrily as ever.

In order to make the law effective a penal provision should be added that if any person who has knowledge of rape or seduction does not intentionally report it to the authorities concerned is liable to be punished with some light punishment. The offence should be included under section 44 of the Criminal Procedure Code.

4. In the Hindu community marriages even in spite of the pressure of enlightened public opinion against its continuance take place at the tender age of the girl at 10, 11, 12 and the consummation of the marriage takes place immediately after the girl attains puberty even though the girl may be below 13. In cases where the girl attains puberty below 13 the consummation of marriage is not, so far as I am aware generally postponed because of the law of the Age of Consent.

(2) The practice of early marriage for girls in the Hindu community is based on deep rooted custom. The amendment of 1925 raising the Age of Consent within the marital state has not so far stimulated public opinion very far in that direction. The age-long practice of early marriages and consummation of marriages immediately after the girl attains puberty even though the girl may be below 13 still seems to be in vogue.

(3) Even in spite of the law of consent a large majority of Hindu girls are still married below 13 and no appreciable results are noticeable after the amendment of 1925.

The steps that ought to be taken to make it effective are by penalising the parents of the girls who perform the marriages and strangers who having knowledge of such marriages fail to give information to the authorities concerned. In case of strangers lighter punishment should be prescribed.

This problem has got to be tackled only so far as the Hindu community is concerned. In Muslim community early marriages for girls are an exception, marriages at or above 16 being the rule.

5. The usual age at which girls attain puberty is between 12 and 13, and in some cases at 14 also. I do not know whether puberty is attained by girls at different ages in different castes and communities. But it certainly varies in richer and poorer classes of societies, girls in the former class attaining puberty a little earlier than in the latter.

6. (1) I have my own doubts that in the Hindu community of course in rare cases cohabitation takes place between husband and wife after marriage but before puberty. Such cases seldom come to light, as such it is not possible to give any concrete illustration. After marriage husband impatient to wait until puberty thinking that the girl is his own property may choose to cohabit with the girl thus ruining her health. The remedy for this state of affairs, if they really exist is Mr. Sarda's Bill which penalises marriages of girls below 14 years.

(2) Soon after puberty the husband cohabits with his wife. This I learn is very common.

(3) If the girls attain puberty before she completes her 13th year a husband as a matter of rule cohabits. If she has not attained puberty before she completes her 13th year a large number of husbands do not cohabit but I suspect a few secretly do.

To my knowledge none of these cases have come up before law courts in this district

7. I do not know what the Hindu Religious injunctions are on this subject. So far as I am aware Islam does not prescribe any rules as to early consummation of marriages.

8. I am not conversant with Hindu ceremonies and as such I am not able to answer this question.

9. I do not consider the attainment of puberty is a sufficient indication of physical maturity to justify consummation of marriage. I think after puberty at least 3 years time is necessary for a girl's physical development to be considered enough to justify such consummation without injury to her own health and that of her progeny. Consummation before 16 is likely to tell upon the girl's health and her progeny.

As stated above the marriages of girls in the Muslim community in this province generally takes place at or above 16. Marriage and consummation unlike in Hindu community takes place at one and the same time. Taking my family which is second to none in point of numbers, over 50 girls must have been married during the past 12 years. To the best of my recollection only one girl was married 3 years ago at the age of 14, the rest were all married above 16, some in 18, others in 19, 20 and a few in 21 also. The girl who was married in her 14th year gave birth to her 1st child last year. The child died before the expiry of 40 days and the mother suffered much sickness during and after delivery. I attribute this result to early marriage.

10. I consider a girl at the age of 18 is competent to give an intelligent consent to cohabitation with due realisation of consequences. At one stretch it is not desirable to bring a radical change in the law which should be gradual. So I think it is better to have it at 16 as given in the proposed amendment of Mr. Gour.

11. Cohabitation before puberty, it is admitted on all hands, is ruinous to the health of the girl. I have no particular case in view to make mention of.

With regard to cohabitation after puberty but before full physical development I have given an illustration from my family in answer to question IX.

12. Early consummation and early maternity is responsible for high maternal and infantile mortality. Children born are not strong and healthy and very weak in constitution. How it affects the intellect of the child I am not in a position to say.

13. The answer to this question is found in answer to question I. Any change in the law will not affect the Muslims very much because as I stated above early marriage in our community are very rare, the Muslims none the less unanimously welcome the proposed amendment raising the Age of Consent in marital and extra-marital cases since they are sincerely anxious that their sisters of the Hindu community should develop on healthy and sound lines.

14. Yes, there is an unanimous decide on the part of women to get their children particularly girls married very early. The moment the girl is 7 or 8 years of age, the mother is on the look out for a husband for the girl and betrays no small anxiety to get her girl married as early as possible. She considers that it is a stigma for the girl not to get married early and we all know too well how she conceals her real age and gives false age much below the real to the bridegroom party. The desire on the part of women to get their girls married early is not confined to Hindu community alone. It is commonly found in muslim women also. But the connotation of the word "early" varies with Hindu and Muslim mother, a Hindu mother would think that 11 or 12 years as early age but a Muslim mother would put it down as 16.

I learn though a Hindu mother is keen on getting her girl married at as early an age as possible, some Hindu mothers are averse to consummation of marriage immediately after her daughter's puberty. In such cases, it is against the wish of the mother who is the best judge as to her daughter's fitness early consummations are being performed.

15. Nor that I know of. A large number of Hindus unlike Muslims keep horoscopes for their children. As false horoscopes can easily be prepared it is not safe to rely on horoscopes for the determination of girl's age.

A certificate from the Birth Register and reliable medical evidence can safely be relied upon.

16. The margin of error will be the same, as neither medical science nor the judgment of the layman has any marked data to minimise the margin of error.

17. Yes, vide answer to question 1.

18. The law as it stands with regard to procedure is all right.

19. The police are anxious to tramp out cases and their object is to see that the accused gets a conviction. Every care should therefore be taken to see that innocent people are not unnecessarily harassed. The previous character of the woman should be taken into consideration in finding out whether she would or would not have given her consent. Her mere statement to the effect that she did not give her consent should not be readily accepted. This is because no woman is so devoid of all sense of shame and honour as to admit in public court that she consented to the immoral act. Secondly when she is under the influence of police she is made to deny her consent when she has actually given her consent.

I conducted a case of rape in District and Sessions Courts of N. Arcot, Vellore (S. C. No. 7 of 1927 on the file of the District and Sessions Court of N. A. Vellore) in March last year. The fact of the prosecution case from my recollection now are briefly these. One Adidrivada constable and 2 Muslim boys-jutka (ekka) drivers had cohabitation with a caste Hindu girl (non-Brahmin) aged 18 or 19 without her consent. I appeared for all the 3 accused and finally all the 3 were convicted. I had opportunities of knowing at 1st hand from the accused, defence witnesses and the records of the case what the truth could have been. The fact that the 3 accused had cohabitation with the girl appears to me to be true and that with her consent seems to me to be also equally true. The woman was kept in close supervision of the police until she was brought to the Sessions Court and there she denied having given her consent. So I state that the court should not be carried away by the girl's evidence as she would in no case admit having given her consent for reasons set forth above, but should go into the past history of the girl and find out for itself whether she is of a loose character with a view to find out whether she would or would not have given her consent.

20. Higher Age of Consent in marital cases if fixed relates to consummation and consummation only. I have shrewd suspicion that in Hindu community at marriage but before the Age of Consent and in rare cases before puberty also a husband cohabits with his wife, and very many of such cases do not come to light at all. So I am of opinion that Sarda's Bill fixing minimum age for girls for marriage will solve this difficulty, as according to that Bill the girl cannot be married before she is 14. I am not in a position to say which of the 2 alternatives public in this part of the province favour.

21. Social reformers might preach from a thousand platforms till eternity. I have my own doubts whether any good will result therefrom. Strengthening of the Penal Law to secure the object in view is absolutely necessary.

Written Statement, dated the 8th August 1928, of Dr. E. E. TUSKER, M.B., B.S., Wesleyan Mission Hospital, Ikkadu, Trivellore, Chingleput District.

1. I have not heard much discussion on the matter so do not know if there is dissatisfaction or not.

2. Personally I should be pleased to see the Age of Consent raised to 16, as I think girls of 14 will hardly understand the results of intercourse, and what it may lead to.

3. I can only say if seduction and rape occur I have seen very little of the result. I have heard of a child being brought to Hospital for profuse bleeding caused by rape. Also it is not uncommon to get girls of about 14 who are unmarried and pregnant. A relation usually comes with the girl and requests the foetus to be removed, but it is very difficult to ascertain by whom they have become pregnant. They generally belong to the lower classes.

4. In this part of the country marriages are rarely consummated until after puberty and thus most are over 13.

5. I think the average age at which girls attain puberty is 13. I also think that the higher castes menstruate a little earlier than the lower classes; but I have no statistics to verify my impression.

6. Cohabitation in the higher classes always takes place very soon after puberty is attained. I think cohabitation before puberty hardly ever takes place in the higher castes, and thus must be very rare before 13.

7--8. I am unable to answer, but I think custom plays a stronger part than religious injunctions.

9. I don't consider that the attainment of puberty is a sufficient indication of physical maturity. I would put 16 as the earliest age.

10. Most Indian girls know a good deal about the results of marriage by 14, but I don't think they have a full intelligent realization of the results until later, probably 16 or 17.

11. I have known several cases where girls have become pregnant at 13 and 14. In most cases it means delivery by forceps with all its attendant risks. Where sepsis occurs it is likely to cause permanent damage to the organs causing subsequent sterility or chronic abdominal pain. One case I saw in a deformed child where craniotomy had to be done and death followed in a few days from sepsis. She was about 13.

12. In many cases it is prejudicial both to the health of the mother and the child and even to life. The mother is often tired out with child bearing before she is 25 and looks ten years older than she is.

13. Dr. Muthulakshmi has done and is still doing most valuable work on the subject. She has made great efforts to raise the Age of Consent and has a strong body of supporters behind her here I doubt if the general public are much interested in the subject.

14. The higher castes as a rule favour early consummation. I think there is great difficulty in determining the age of girls. I would suggest that birth registration should be accompanied with the name of the child, and a certificate be handed to the parents, or if necessary handed over to the headman of the village, a copy being kept by the registrar.

16. It might be a little less difficult if the Age of Consent is raised to 14.

17. Yes. The punishment should be greater for extra-marital.

20. I think fixing the minimum Age of Consent would be the more helpful.

21. I would prefer to rely on the progress of social reform.

Written Statement of B. BHIMA RAU, President, Bench Court, Anantapur, Madras Presidency.

1. There is no dissatisfaction at present with the state of the law as to the Age of Consent as contained in sections 375 and 376 of the Indian Penal Code. It seems to be too early to gauge the effect of Legislation of 1925. No cases of violation of Law have as yet come to notice.

2. (1) It is desirable to retain the law of the Age of Consent as it is for the following reason:—

In a large number of cases, Indian girls brought up under comfortable circumstances attain puberty when they are between 12 to 13 years of age.

It seems, therefore, reasonable that consummation should be effected as early as possible lest by keeping them under restraint till they reach 14 years of age, is likely to lead them astray in the Tropical climate of India.

(2) It seems unnecessary to enforce further legislation in this matter although it is desirable to allow sufficient time for the physical development of girls. With the advancement of education, the evil of early consummation might in the long run disappear.

3. Crimes of seduction or rape are generally rare in this part of the country. There have been no such cases so far as my knowledge goes. It seems to be too early to express any opinion on the effect of the amended legislation of 1925.

4. (1) Yes.

(2) The trend of opinion among persons who have had the benefit of English education has been to put off consummation as late as possible.

(3) Some who are not orthodox and inclined towards social reform have put off marriages beyond 133. No further legislation appears, therefore, to be necessary.

5. The usual age of attaining puberty ranges from 12 to 16, in this part of the country. It is as follows:—

Labouring classes	14 to 16
Brahmins and Vysyas (Komatis) and others who are in well-to-do circumstances and vegetarians	12 to 13

It is difficult to draw a definite line of demarcation in the matter as the constitutional peculiarities have much to do with the attainment of puberty.

6. (1) Cohabitation is not common in this part of the country among any class of people before puberty.

(2) Consummation is generally arranged soon after puberty, except in cases in which the girl is weak or the husband sick or when the attainment of puberty was on inauspicious days.

(3) Yes, in some rare cases. I have not heard of any such cases coming to Court. There is no religious sanction for consummation before puberty.

7. The practice of early consummation of marriage after puberty is due to religious injunctions. A few of them are noted in the annexed sheet. The penalty for its breach is also noted.

8. Garbhāñjan ceremony is usually performed in this part of the country on the day of the consummation. The ceremony is performed after attainment of puberty and on the day of consummation and never earlier.

9. It is generally so, except in cases where, owing to peculiarities of constitution, the girl is undeveloped and physically unfit. In the excepted cases, 6 months or one year's time would be enough for such physical development.

10. The Indian girls are generally very modest. The facts that there is no wooing among Indians and that the girls are so bashful as not even to approach their husbands or talk to them till some time after consummation, are sufficiently indicative of their modesty. The mothers therefore, always decide when their daughters will be fit for consummation which, in the majority of cases, will not be very long after puberty. The question of open and willing consent on the part of girls will not, therefore, arise, though they may have a desire for consummation.

11. I have not at all come across cases in which there was cohabitation before puberty nor cases in which the health of the girl or her progeny suffered on account of consummation.

12. The high maternal and infantile mortality may be due to various causes such as those noted below:—

- (i) want of proper nourishment and general poverty,
- (ii) want of proper medical aid in time,

(iii) climatic conditions and diseases, and

(iv) unhealthy condition of the mother and not solely due to early consummation.

13. None, except among the English educated classes.

14. Not generally.

15. No cases of the kind came to my notice.

16. The supposed advantage of raising the Age of Consent to 14 or above does not, in my opinion, justify interference with marital cases.

17. Extra-marital cases ought to be distinguished from the marital cases and the latter should be made non-cognisable punishable with fine only.

18. I would suggest that the marital cases should be altogether expunged from legislation, if however there should be any punishment at all, it may be only fine.

19. None. Unscrupulous subordinates may interfere and mar the sanctity of family life, if legislation should be made stringent in the matter. It is, therefore, desirable that the existing state of affairs may be allowed to continue.

20. Interference by legislation in either of these matters is considered quite objectionable by the public in general.

21. It is highly desirable to rely on the progress of social reforms by means of education and social propaganda as there is already a change in the social customs of to-day as compared with those of 20 years ago.

The following are the religious authorities alluded to in the reply to question 7 :—

श्रीः

—पराशर स्मृतिः—

1. ॥ ऋतुस्नाता तु या नारी भर्तारं नोपसर्पति ।

साश्चता नरकं यातिर्वैधव्यं च पुनः पुनः ॥ १ ॥

2. ॥ ऋतुस्नाता तु यो भार्यां सजिघी नोपगच्छति ।

घोरायां भूषणत्वायां बुज्जतेनात्रसंशयः ॥ २ ॥

प्रायश्चित्तम् देवसः ।

3. ॥ यस्त्वरोनोऋतुस्नातां कस्यचिन् नोपगच्छति ।

भूषणत्वाववाप्नोति प्रजाप्राप्ताविनाशते ॥

उच्यते ।

4. ॥ ऋतौ न गच्छेत् यो भार्यां सोऽपि कश्चर्धमाचरेत् ।

॥ बोधायनः ॥

5. ॥ ऋतौ न गच्छेत् यो भार्यां नियताधर्मचारिणीम् ।

निवर्तमानास्तस्य प्राचायाम् अतस्तुतम् ॥

Written Statement, dated the 10th August 1926, of Dr. ELIZABETH BORGES, Victoria Memorial Women's and Children's Hospital, Adoni, Bellary District.

To the best of my knowledge I can remember no complaints regarding the present law related to the Age of Consent. In my opinion and is my medical practice I consider that there must be an alteration in the present law regarding the Age of Consent for the following reasons:—

1. I do not consider in general that a girl of 13 is competent from my experience in conversation with girls of that age to give an intelligent consent to cohabitation, and I do not think she fully realizes the consequences.

2. Crimes of seduction and rape are not to my knowledge frequent in this part.

3. The amendment of 1925 has as far as I know stimulated public opinion in that direction, and I believe has postponed marriage beyond 13 in some cases.

4. In my part of the country girls attain puberty about the age of 12.

5. Not to my knowledge.

6. I certainly attribute the practice of early consummation of marriage at puberty to religious injunction. I am unable to state reason for the authority and nature of the injunction and neither do I know of any penalty for its breach.

7. The Garbhadan ceremony from what I gather is performed in these parts after the attainment of the puberty and generally among the Brahmmins, Shatryas and Waishyas and a few of the Sudras have this ceremony on the 16th day after the attainment of the puberty and I believe it coincides with the consummation of marriage.

8. I do not consider generally that the attainment of puberty is a sufficient indication of physical maturity to justify consummation of marriage. In my opinion at least four years after puberty, a girl's physical development may be considered to have sufficiently developed to justify consummation without injury to her own health and that of her progeny.

9. Generally in my district I have found that girls do not realize anything of the difficulties and trials of child-birth as she has no education in this line and therefore she cannot realize the consequences of cohabitation.

10. Although not from my experience but from my medical knowledge I cannot conceive that cohabitation before nature ordained could not but injuriously affect a girl and consequently prejudicially affect her progeny.

11. Early consummation and early maternity statistics prove are responsible for high maternal and infantile mortality and as nature is not ready it must vitally affect intellectual and physical progress of the people, as it is certainly impossible that a girl not fully developed can give that sustenance and strength to the child as a grown up woman.

12. To the best of my knowledge except amongst the few educated, the public are not aware of this law.

13. Women certainly as they have no education and are entirely governed by customs do favour early consummation of marriage for their children.

14. Physically owing to the various occupations it is a matter of greater difficulty to judge the age of a girl. Agricultural class, of these, girls are far more physically developed at the age of 12 and 13 than a girl of the same class living in the town.

With regard to the measures I would suggest that there should be more strictness in registration of births.

15. One year is not sufficient to materially reduce or minimize the margin of error in determining the age.

16. I do not consider that there ought to be any separation of offences within and without the marital state.

18. I regret I cannot suggest any difference in the procedure of trial for offences within and without marital state, but my considered opinion is that there ought to be no differences and both the cases to be treated exactly alike.

19. This is a very difficult question to answer under the present existing condition.

20. I do consider that legislation fixing the minimum age for marriage will be more effective than penal legislation fixing a higher Age of Consent.

21. I would rely on the strength of the penal law to secure the object in view, as the progress of social reforms by means of education and social propaganda will take a very long time.

Written Statement, dated 11th August 1928, of the Podu Jana Oozhia Sangam, Athambakam, St. Thomas' Mount.

1. Yes. There is widely felt feeling that the Age of Consent ascertained in sections 375 and 376, Indian Penal Code, is very low.

2. The Age of Consent must be raised to at least 16 in the interest of our country. The reasons for it, have already been well summarised in the statement of objects and reasons to Bill No. 12 of 1924. It says "Books of medical jurisprudence established the fact that the age of puberty in India is attained by a girl upon her reaching the age of fourteen. Even though puberty may be reached at that age, it is obvious that girls are unfit for sexual cohabitation till they are older and more developed in physique and strength. The appalling infant mortality in the country is partially ascribed to early marriages and consummation which follows with immature girls. It is therefore not only for the protection of the minor girls as also their progeny that the Age of Consent should be raised to at least 14 years." If girls attain their puberty at 14 and require some more years to be fit for cohabitation, it stands to reason that the Age of Consent must be some years above 14. We suggest that Sir Hari Singh Gour's proposal to raise it to 16 may be accepted.

4. The amendment has not had the effect contemplated by the sub-clause (1); because there is no machinery to bring the offenders to certain punishment. Neither has it had the effect contemplated by sub-clause (3). But it is undeniable that it has stimulated public opinion to a certain extent.

5. Girls in our part of the country usually attain puberty between twelve and fourteen. Among the working classes it may be a little later.

6. (1) No.

(2) Yes. Consummation takes place generally within six months of attaining puberty.

(3) Yes, if the girl happens to attain her age before that period.

8. Yes. The ceremony coincides with the consummation of marriage. It is performed after the attainment of puberty generally within 6 months of it.

9. *Vide* answer to question 2.

10. An intelligent consent with a due realisation of consequences as contemplated by the question cannot be given by a girl below 14 years of age.

12. Yes; though not solely.

13. Yes; excepting a few uneducated Brahmins and non-Brahmins, the people as a whole, feel that the Age of Consent must be raised to at least 16. Further there is no reason why the Age of Consent should be different in the case of marital cases from that of extra-marital cases. A girl of 14 is as much unfit for cohabitation with a husband as she is with a third person. We suggest that the exception to section 375, Indian Penal Code, be alto-

gether deleted and corresponding changes be made in section 375, Indian Penal Code.

14. No.

17. No. *Vide* answer to question 13.

18. No.

19. A system of compulsory registration of marriages and consummations may be introduced and tried, just as in the case of births and deaths. The keeper of such registers may preferably be Village Munsiff in villages, who will easily be able to ascertain the true age of the contracting parties. Barring collision this may prove a good check to the unlimiting actions of the parties.

20. We are emphatically of opinion that fixing the minimum of marriageable age will be more effective than raising the Age of Consent and the public opinion also is in concurrence with our opinion in this matter.

21. In the present condition of the Indian people of India, we should think that penal legislation and propaganda should go hand in hand. There is no question of preferring the one to the other. The legislature must help the propagandist and social reformer by its legislation. So alone can we reform our society.

Written Statement, dated the 11th August 1928, of M. R. Ry. N. RANGA REDDY GARU, B.A., B.L., President, District Board, Cuddapah.

1. There is dissatisfaction with the state of the law as contained in sections 375 and 376.

2. I am of opinion that an advance on the present state of law is necessary. Though perhaps it is true that the girl attains puberty at an earlier age in this country than in cold countries I believe she is physically weak for sexual intercourse. She may not have maturity of understanding also. Further early consummation would deprive a girl of the opportunities of having secondary education. She would not have gained the necessary knowledge which would fit her for her new life.

3. The crimes of seduction or rape are not frequent in this part of the country.

4. One cannot give an affirmative opinion on this point, but the amendment has stimulated public opinion in its favour. Except the very old and orthodox section of Brahmins, all people are in favour of the amendment and appreciate that it is a right move. The amendment has not succeeded in putting off marriages beyond 13. The only way of preventing early consummation is to penalise marriages below a certain age and punish the parents or guardians in case marriages are performed within the prescribed age. It may be advisable to prescribe the same punishment for offences of this class as the one provided for in 376, when the husband commits rape on his wife when she is above 12 years of age and below 13.

5. Girls attain puberty generally after completing 13 years of age, and this age is common to all castes, communities, or classes of society.

6. Cohabitation is not common before puberty.

Soon after puberty it is common to have cohabitation among Brahmins and Vaisyas. Amongst other classes marriages are generally performed only a year or two after the girl attains puberty. None of these cases come to court.

7. The practice of early consummation of marriage is due to custom.

8. The Garbhadanam ceremony is performed in this part of the country. It is otherwise known as consummation. This is done only after the girl attains puberty. In pre-puberty marriages this consummation ceremony is performed soon after puberty, say within a month. The consummation

ceremony will be postponed to a longer date only in cases where they are not able to get an auspicious Muhurtam or where the boy is physically weak. Sometimes in the interests of education of the boy this Garbhadanam ceremony may be postponed to a year.

9. I would not consider that the attainment of puberty is a sufficient indication of physical maturity. There should at least be a postponement of two years for the ceremony of consummation after the attainment of puberty by the girl.

10. Sixteen years of age.

11. Nil.

12. These two are responsible to a certain extent for high maternal and infantile mortality, but they are aggravated by the poverty of people.

13. They are in favour of raising the Age of Consent in both the cases. It is general and the opposition comes from very few Brahmins and that too in the case of marital cases only.

14. The women do not favour early consummation.

17. Though I may not agree in efficacy of penal legislation for marital offences it is advisable to differentiate the two. The punishment provided for in section 376 is sufficient.

18. Trial in the case of marital offences should always be held in camera. The marital offences should be enquired into by the District Magistrate alone.

20. I do not believe that penal legislation fixing a higher Age of Consent for marital cases is likely to be more effective than legislation fixing the minimum age of marriage. The first course is pernicious also. It will destroy the sanctity of home life. It is impossible to expect that the husband who goes to gaol at the instance of his wife would live amicably with his wife after his return from gaol. The lot of the wife also will be very miserable. Considering the fact that Hindu Law does not recognise a divorce it is reasonable to expect that neither the wife nor her parents nor her relations would give any evidence in marital offences. It is inadvisable that the State should be allowed to launch a prosecution. This will be in consonance with public opinion.

21. I would prefer to rely on strengthening the penal law. People are sufficiently advanced to recognise that child marriages are an evil. Bound down by custom they do not want to give up except under some pressure of penal legislation. It is necessary also that the State should intervene for preventing early marriages. In the field of social reform there are precedents where the State has intervened. "Sati" has been prevented. Widow re-marriage has been legalised. I believe that public opinion is in favour of this reform.

Written Statement, dated the 11th August 1928, of Mr. C. N. MUTHURANGA MUDALIAR, B.A., M.L.C., Mylapore.

1. Yes. Dissatisfaction is felt in two aspects. (1) Section 375 of Indian Penal Code, does not distinguish between marital rape and extra-marital rape. It is felt that the two offences are of different nature and should not be classified and treated as similar. Whatever may be the objections urged against raising the Age of Consent within marital relations, no such objection can be raised, for raising the Age of Consent for non-marital relations to 16 or 18. It is the unfortunate identification of the two different offences that is responsible for the very low Age of Consent in respect of non-marital relations. A distinct classification of the two offences separates, if possible, with different names, might render it easier to remove this anomaly.

Even in respect of the Age of Consent within marital relations, it is felt that 13 is too low to be effective in the case of large number of girls who attain puberty at about 12 years of age, as evasion becomes very easy, besides,

in the case of girls attaining puberty at about 13 years, the present law allows consummation at puberty or immediately after. Raising this to 14 will, except in very exceptional cases, ensure, if the legislation becomes really effective, that there would be at least a year's interval between puberty and consummation.

2. (i) The present law that marital intercourse before 12 should be treated as rape properly so called, is sound and must be retained. The immense majority of girls attain puberty at about 12 or a little later and since public opinion regards pre-puberty relations as highly improper and sinful, it will be a reactionary step to repeal a rule of law which is in full consonance with public opinion.

(ii) Fixing the Age of Consent at 13, as already pointed out in answer to question 1, leaves unaffected a large number of cases, where the girl attains puberty after 12, enabling consummation of the marriage to take place within a very short interval after puberty raising it to 14 will ensure that, except in exceptional cases, there will be an interval of at least a year, between consummation and puberty.

3. Extra-marital rape is not frequent in this Presidency. Rape within marital relations is not very frequent, and such occasional cases as do occur never come into court, and it is not possible to estimate exactly its frequency.

4. The amendment of 1925 has had absolutely no effect on the age of marriage of girls. But to a certain extent, in the case of girls attaining puberty after 12, it has prevented consummation substantially earlier than 13, and also public opinion among the educated class is in consonance with that. But none the less, in the case of girls attaining puberty at 11 or before 12 there is scarcely any public opinion against consummation before 13, and the raising of the Age of Consent has been totally ineffective in those cases.

I am afraid it is impossible to make any law fixing the Age of Consent within marital relations effective, unless the age of marriage is also raised to the same age.

5. The usual age of puberty is between 12 and 13 with exceptions falling outside these limits.

There is no difference in this respect among the various castes and communities, the general rule being that girls in good health attain puberty a little later than girls who are puny and not in good health.

6. (i) Cohabitation before puberty is not common.

(ii) Cohabitation soon after puberty, that is to say, within 6 months after puberty, is usual among the classes where marriage is performed before puberty. Even among the classes where pre-puberty as well as post-puberty marriages are customary pre-puberty marriage is usually followed by consummation soon after puberty.

(iii) In cases where the marriage is pre-puberty, and where the girl happens to attain puberty before 12 or 12½ years, consummation often takes place before the girl completes 13 years. These cases, never come into court.

7. There is no religious injunction in support of early consummation, and there is a strong religious as well as social feeling against consummation before puberty. And such cases, that do occur, take place illicitly; but there is no penalty either religious or social, for a breach of this rule.

9. No. Especially in the cases of puny girls living in unhealthy surroundings and who attain puberty at a precocious age there must be at least 3 years between puberty and consummation. In the case of normally healthy girls, there must be at least a year's interval, preferably, 2 years.

10. The age must be somewhere above 18. But I am afraid it is not practical politics now. And we must be content to work for fixing the age at 18 as the minimum. There can be absolutely no objection, however, to raising the Age of Consent, immediately to 18 in the case of non-marital relations.

11—12. It is impossible for any person living in Hindu society not to notice many cases in which girls suffer a great deal by becoming mothers long before full physical development. In fact, cases where girls do not become mothers before they attain full physical development are rare and exceptional, and are due to mere chance and not any deliberate foresight or self-control in avoiding early maternity. In fact once the marriage of a girl has been consummated, all further growth or healthy development of the girl entirely cease, and in most cases, early motherhood results in lifelong ill-health of the mothers. Except among very well-to-do people, they are compelled to carry on the household work and attend to the children and their strength being rarely sufficient for the tasks, the household affairs are neglected and the children are ill-cared for.

It is impossible to measure the injury done to the nation by this. It is certain that the efficiency and earning capacity of every family is impaired by this and medical expenses have become a serious item in the budget of every middle class family. The high infant mortality is undoubtedly due to poverty of the family, and to the insufficient attention that the over-worked mothers are able to bestow on the children. The girl mother has neither the time nor the energy to take proper care of the children, and is totally ignorant of the rules of hygiene and the methods of training up children.

As to the effect of this on the intellectual and physical progress of the nation, the less said, the better. Except in the case of rich families of advanced views, the women have no opportunity for education or culture. The effect of this on the intellectual and moral progress of the nation and on the education and upbringing and on the training of the children can only be estimated and must be very considerable.

13. The general agitation in the country for social legislation has created a general opinion, that in cases of non-marital relations, the Age of Consent may well be raised to 18; but in the cases of marital relations, there is very little development of public opinion, except among english educated classes. Among the reformers that is, of those in favour raising the age of consummation and of maternity, there is a strong feeling that laws regarding the Age of Consent will be futile and easy of evasion, unless the age of marriage is also raised.

14. Women are not generally in favour of early consummation of the marriages of their own daughters, but the feeling is not sufficiently strong or well informed to resist the pressure on the part of the girl's husband and his family.

15. Yes. In any event consummation at 12 or earlier, will become impossible, so far as the legislation raising the age is effective and evasions will be confined to cases of consummation only a little earlier than the prescribed age.

17. Yes. It is an anomaly that the two offences, in their very nature different, should be classified together. In cases of non-marital offences the Age of Consent may be well raised to 18 and the offence punished by imprisonment of 7 years of either description. In the case of marital relations, for offences in the case of girls before 12, offences may be punished by imprisonment of 7 years and in case of girls before 13, by 5 years, and over 13 and below 14 by 2 years.

20. Public opinion except the certain classes of english educated persons against any legislation tending to raise the Age of Consent in any manner; but many persons, opposed to any reforms, are willing to advocate legislation raising the Age of Consent, as they believe, and rightly that laws regarding Age of Consent not accompanied by legislation fixing minimum age of marriage will be entirely futile and can be easily evaded and made a dead letter. Among those in favour of the reform that is raising the age of consummation and maternity, there is a very strong opinion that legislation fixing the minimum age of marriage at 14, on the lines of Mr. Sarda's Bill, as now amended by the Sebati Committee is absolutely essential and

without that, all legislation in respect of the Age of Consent and all the attempts of social reformers will be entirely futile.

In connection with this I may call the attention of the committee to the fact that, at least among the educated middle classes, the age of marriage of the boy has advanced from 21 to 25 and is still further advancing. The age on which youngman can complete his education and hope to earn his livelihood to become able to support himself, has advanced and it still further advancing. It is a very healthy development that youngmen should not marry and burden themselves with a growing family before they have completed their education and are able to support themselves. It will be a misfortune if the customs of the country arrest this very healthy development. It must be confessed that the custom of pre-puberty marriage among certain communities has the effect of arresting and preventing this healthy movement. The custom pre-puberty marriage implies that girls must be married before 11 or 12, and if the boys do not marry before 24 or 25 the disparity of age is undesirable. This disparity of age is one of the causes that lead to a demand on the part of the boy of this family that the marriage should be consummated soon after puberty and the pressure really cannot be resisted by the girl's parents without causing friction and deep ill-feeling between the families. Further this disparity has other obvious undesirable consequences. The only remedy is to change the custom so that the girl can be married at a more suitable age, and legislation must be directed to that end and must not be confined merely to alteration of the law regarding Age of Consent.

21. Legislation is necessary if desired object is to be achieved in the next 2 or 3 generations. Even persons who are very anxious to postpone the marriage their girls are afraid of doing so on account of social prosecutions. But legislation on the lines of Sarda's Bill will help these people by preventing social persecution as anti-reformers would know that while no body is anxious to get them into trouble for breaches of these laws, if they start giving trouble to others by any unfair social or religious persecution, the reformers would retort by getting them persecuted for breaches of the law.

Education and social propaganda are no doubt necessary, but cannot by themselves, achieve anything within a measurable period of time. But aided by such legislation education and propaganda will be very effective. At least, people can act according to their own convictions without fear of their opponents persecuting them by unfair means or by slandering their families.

Written Statement, dated the 11th August 1928, of M. R. Ry. Rao Bahadur G. KOTHUNDARAMANUJULU NAIDU, Retired Sub-Judge, Madras.

1. I am not aware of any dissatisfaction as to the Age of Consent with the regard to the offence of rape committed by strangers. As regards the husbands, hardly ever the question of age of the wife is seriously considered. There is always the difficulty of finding out the correct age of a Hindu girl. The date of puberty is generally considered to mark the time for marital purposes and if a girl who has attained her puberty is married the consummation is allowed to take place in the usual course except for considerations of the suspicious month, the health of the husband or the wife. Few parents otherwise bear in mind the provisions of Sections 375 and 376 of Indian Penal Code, in performing the consummation ceremony.

2. I would raise the age from 13 to 14 years as regards marital offences but as regards extra-marital, the age may be 16 years instead of 14 years in Section 365 of Indian Penal Code. Having regard to the general deterioration of the physique of the younger generation, I would raise the age as above suggested.

3. I have not come across more than a few isolated cases in my long experience. I am not aware of the results of the amendment made in 1928.

As 13 and 14 years mark the period when the girls attain their puberty in this part of the country, there is scope for men to seduce or commit rape upon girls who are unwary or ignorant. Girls of the age of 13 or 14 years are not sufficiently matured in mind and character and are apt to go wrong or give in. If as suggested by me in my reply to Question No. 2 the age of girls is fixed at 16 years the law will act as a deterrent.

4. As stated by me already the law is ignored or lost sight of or not cared for, in the marital state. The consummation is never allowed to take place among the Hindus until the girl attains her puberty and is by development and in appearance fit to become a mother. The marriage need not be put off as marriage does not always result in consummation. I would leave the law as it is, having regard to the neutrality which the Government undertook to maintain in all matters religious and as the marriage in the opinion of a Hindu is a religious rite. I would leave it to the people to advance in their opinion to determine the proper time for marrying girls.

5. 13 and 14 years mark the time for attaining puberty. Among the working or labouring classes the girls attain puberty later than the girls in middle classes and high classes where the girls do little or no manual work. Girls attain their age in the middle classes and the high classes even sooner than 13 or 14 years.

6. I am not aware of cohabitation being common in any class or classes of people before puberty or soon after puberty or before the girl completes 13 years and no cases have come to my knowledge as a Judicial Officer for 25 years and an Assistant Sessions Judge for not less than 3 years.

7. There is no practice of consummation ceremony being performed before or at puberty nor is there a religious injunction to that effect. No answer is necessary to the latter part of the question.

8. Garbhadhan is performed in my part of the country. It is consummation and it is performed after the puberty and the interval between puberty and the consummation depends upon the physical development, the general health of the parties and other considerations in the mind of the parents.

9. The attainment of puberty is one of the circumstances which determines the time for consummation. Puberty is not a sufficient indication. Even children of the same parents show different degrees of physical development at a particular age. No hard and fast rule may be laid down on this point.

10. At 16 years, *vide* my reply to answer No. 2 *supra*.

11. I am 65 years old, I worked as a bench clerk in the Madras High Court for some years, was a District Munsif for 17 years, a Sub-Judge for 8 years, and an Assistant Sessions Judge for not less than 3 years. I have not come across any case of the kind contemplated in this question.

12. The question of dubious. The word early occurring both before the words consummation and maternity is indefinite. No general rule can be laid down for restricting the time for consummation or for maternity. When the girl shows signs of full development and her general health is good, the consummation may take place after puberty and the maternity will follow if the womb is in a position to fructify. I am not doctor and know nothing of Eugencies. As a layman I would think twice before I would legislate even for a dozen people on this matter as girls of the same family show different degrees of development at the same age and their capacity to prove mothers of healthy children varies. Much more difficult is it to lay down a general rule for a whole class of people or community or for different classes of people in India among Hindus.

13. Only English educated people who read English Newspapers give a thought to this subject. This is the reason that people even in large towns have to be lashed to activity by leaders of reform or anti-reform to take part in discussions at meetings brought about as to the Age of Consent. The development is noticeable only among people who wish to loom large on the public platform or in the Legislative Councils. The majority of people are still ignorant of the agitation.

14. Women in these matters as in others vow to the opinion of men and they are in no way interested to perform the consummation a day earlier than timely.

15. If the present staff of the birth registers has been found to be wanting in maintaining a correct register, a better system of recording the birth of children may be resorted to. The parties to every marriage also may be asked to note their age of birth and also the date of marriage and the place where their date of birth was registered and the names of their parents. This will necessitate maintenance of a marriage register, failure to register the age of parties and the marriage being made penal.

16. If the age is raised to 16 years the difficulty of ascertaining the age will be minimised.

17. I am not for any change in the punishment for extra-marital offences but in the case of marital offences which I would treat as a different class of offences the maximum punishment may be reduced to six months' simple imprisonment or fine.

18. I would allow the marital offences to be dealt with by a First Class Magistrate *in Camera* with such variations of procedures as are necessary.

19. I am unable to give an answer.

20. Penal Legislation fixing a higher Age of Consent is more effective. It is necessary and is common to perform the marriage which is betrothal before consummation. If the age of the marriage is fixed and the violation of the law is to be attended with punishment it will work unnecessary hardship.

21. I am not for enforcing law with hardship and I would allow the people to see as they advance in education and knowledge of social problems that it is desirable to put off marriage until a certain age or until there is a certain physical development. It is an open secret that the parents in classes in which marrying of girls before their attaining puberty is compulsory, put off the marriage until the girls almost reach the time of puberty or until they have attained puberty.

Written Statement, dated the 11th August 1928, of the Standing Committee of the Indian National Social Conference, Mysapore.

1. There is a great deal of dissatisfaction regarding the present Age of Consent. That such a dissatisfaction has not been very articulate is no indication that it is not very wide spread. The masses of the country though mindful of this evil are either too apathetic or tradition-ridden to complain. The opinion of the leaders of the community has to be taken into account. We have no doubt that most of them are dissatisfied with the Age of Consent as it at present stands and will be glad to see it raised. The Standing Committee of the Indian Social Conference is in favour of the raising of the Age of Consent.

2. In our opinion there are no circumstances justifying the retaining of the Age of Consent at it now stands in the Indian Penal Code.

3. As suggested in question 10 the consent should be given with a due realisation of the consequences of the sexual act. At 14 we think the girls will not be in a position to realise the full consequences of the act to which, if at all, their consent is obtained. In these matters a girl cannot be too careful because any imprudence on her part will mean to her social obloquy, degradation from caste, and sometimes even forced maternity. It may not be out of place here to point out that the consent given by a girl below 16 for kidnapping will be deemed in law to be immaterial. We see no reason why there should be a distinction between these two age limits. Mention may be made that in England carnal knowledge of a girl below 16 years is punishable. (*Vide Halsbury's Laws of England, Vol. 8, page 610*).

3. Crimes of seduction or rape are frequently happening in this presidency. A perusal of the figures show that since the passing of the amended

law in 1925 there has not been any very appreciable diminution of this crime. The exceptionally slow process of law, the natural dislike of people to complain in such matters explain to a very large extent why this crime is not effectively put down. A more summary method of trial with the necessary safeguards to ensure fairness to the accused and the exclusion of the public from the proceedings may encourage people to seek protection under law more readily than now. The value of education, the help of the vigilance societies and Social Reform Associations cannot be over-rated.

4. We do not think that the amended law of 1925 has been effective in raising the Age of Consent within marriage. Since early marriages are still taking place and there is no bar for early consummation we think there must be cases where wives are forced to have sexual intercourse with their husbands even when they are below 13. Such cases unfortunately do not come out. We are not in a position to say that the Act of 1925, has been instrumental either in postponing the consummation of marriage or has been able by stimulating public opinion to put off marriage beyond 13. We are of opinion that no distinction need be made between a girl in marital state and one without in respect of the Age of Consent. In regard to punishment a difference may be made, the husband being punished very leniently.

5. The usual age at which girls of well-to-do classes attain puberty may be stated to be between 12 and 14. Among the labouring classes the age may be slightly higher. But 14 or 15 may be the upper limit.

6. Cohabitation before puberty is not common in this Presidency though cohabitation soon after puberty is very common even though the girl is not 13 and such cases hardly are brought to light.

7. The texts of Gautama, Manu, Baudhayana and Vasista which are generally quoted in support of early marriages do not speak about the consummation as being as necessary as the mating of the girl with a husband. It may be easy to cite the Smritis in defence of early marriages. But it is open to doubt if early consummation can be so supported. It may not be out of place to point out that the protagonists of the early marriages in their rare moments of fairness say that they would not object to the age of consummation being raised.

8. " Garbhadhan " ceremony is fairly common here.

9. This is a question for a medical expert to answer.

10. Even this question had best be answered by the medical expert. But speaking in the light of general experience we think at 16 a girl may be deemed to give intelligent consent to cohabitation with a due realization of the consequences.

11. Not answered.

12. We have no doubt that early consummation and early maternity are responsible to a large extent not merely for the infantile mortality but for the slow deterioration of the physical stamina of the race.

13. There has been further development of opinion in favour of the raising the Age of Consent.

14. We think educated women do, though the others are still in the grip of custom.

15. If Birth Extracts are carefully kept we see no reason why the determination of the age of the girl should give trouble.

16. We do not think that raising of the age limit to 14 would minimise the margin of error. We recommend that the limit should be raised to 16.

17. Yes. The husband should be punished leniently and in no case should transportation for life be awarded to the husband (accused).

18. Though offences within and without marital state need not be tried differently the cases of rape as a whole may be tried in Camera with of course the necessary safeguards to ensure the fairness to the accused.

19. The existing machinery is sufficient to deal with these cases.

20. We think that the raising of the Age of Consent in the marital state to 16 is more desirable and is likely to be more effective than raising the marriageable age of girls unless such raising is fixed at 16 years. The public opinion in our view would welcome raising of the Age of Consent more heartily than the raising of the marriageable age.

21. While we are not insensible to the results of widespread educative propaganda and the rousing of the social conscience of the people, we are of opinion that in the transitional stage at least there should be a penal law to strengthen the above object.

Written Statement, dated the 11th August 1926, of Mr. APPALA-BOTLU RANGIAH GARU, Prohit, Madanapalle.

In this country people belong to different communities. The Age of Consent of each community is fixed in accordance with the marriageable age determined by each of them. In this connection matters relating to the people, who follow the Hindu Shastric principles have been carefully considered and replies are being given.

1—3. According to the Hindu Shastras a girl should be married before she attains puberty. If the husband of a girl fails to have sexual union with her just after puberty he will be considered to have committed the sin of killing a child in its embryonic stage. For the reasons mentioned above no girl in an orthodox family should remain unmarried till she attains puberty. In these circumstances there is no necessity to fix the Age of Consent for unmarried girls. In the case of married girls the question of fixing the Age of Consent for sexual union has to be considered. At present if the husband of a girl tries to have or has sexual intercourse with her when she is less than 13 years of age he is considered to have committed a crime under Section 375 of the Indian Penal Code.

No doubt shastras condemn a person if he tries to have sexual union with his wife before she attains puberty. Shastras permit a man to have sexual union with his wife just after puberty and further permit him to have intercourse with her during all other times except during her sickness or menses. So we are of opinion that it is contrary to the shastras to place restrictions in the way of a man having sexual intercourse with his wife just after her days of puberty. The prohibition or restriction placed by the existing laws is rather vexatious and unsatisfactory to every orthodox family in this country.

4. I am not of opinion that girls are weakened on account of their husband having sexual intercourse with them just after their puberty. It has not done any harm in the case of healthy and strong girls. In spite of the amendments in the Indian Penal Code nuptial marriages are being celebrated as usual. Nobody is convinced of the theory that marriages should be celebrated after the age of 13 or nuptials should be celebrated after that age.

5—9. In this country girls do not ordinarily attain puberty before the age of 12. No man tries to have sexual intercourse with his wife before she attains puberty. Just after puberty nuptial marriages are being celebrated according to Shastras. It is not necessary to state that the age of 13 should pass. As detailed above nuptial marriages are being celebrated according to Shastras if girls are healthy.

12—14. We are not convinced of the theory that women become weak in body and mind and die in large numbers on account of their early marriage and producing children at their early age and further we are not convinced of the theory that infant mortality is great on account of childbirth at early age. We are of opinion that the present system of celebrating nuptials is quite satisfactory.

17. We are of opinion that Government are not justified in placing restrictions in matters relating to the sexual intercourse of married women. In orthodox families this will lead to many troubles. In the case of husbands,

who contravene the provisions of the rules punishment should be rather slight. Imprisonment should in no case be inflicted.

18—19. Under the existing laws the orders of the District Magistrates are enforced in the case of intercourse with married girls. In such cases the parents of the girl alone should be entitled to charge the person but no charges brought at the inducements of strangers should be given any importance.

20—21. The Shastras have already fixed the marriageable age of girls. Marriages celebrated after the prescribed age are not in keeping with the principles laid down by Shastras. So the question of fixing the marriageable age of girls should not be brought for consideration of the legislators. Even an attempt to do so is not agreeable to the general public. The civilized gentlemen of the present day on account of their western education and tours in foreign countries will contravene these principles, but people who closely follow the principles laid down by the Shastras of the Barata Desa. Moreover it is not an act of political and administrative genius. So we pray that Government will frame laws with due deference to Shastras and customs observed by this country and avoid troubles.

Written Statement of C. NARAYANASWAMI REDDI, Esq., B.A., LL.B., Advocate, Member of the Secondary Education Board, and President of the District Temple Committee, Nellore, Madras Presidency.

1. Yes. There is certain amount of dissatisfaction with the state of the law as contained in Sections 375 and 376 of the Indian Penal Code.

2. In my opinion, making an advance on the present law is justifiable.

This is not a highly advanced country from the point of education or culture, and the capacity for discrimination is absolutely wanting at the age of 14. Besides the proper developments of physical and nervous systems may be a good guarantee for the discriminate use of discretion, if 18 is fixed as the proper Age of Consent, in conformity with the age of majority, though 17 may be provisionally fixed.

3. In my opinion, the crimes of seduction or rape are somewhat frequent. But there is a very strong tendency to hush up such crimes in order to avoid any sort of publicity, especially in families of some status, for fear that any such publicity would lead to social ostracism and some such religious and social indignities, on the family and its near and dear relations. Further it leads to the eternal shame and ruin of the girl involved. Therefore it is very rarely that cases of this description come up to court; even they shall be only from families of low castes.

The evil of early marriage gives tacit social sanction to such acts, especially if the girl happens to have attained puberty before 12, as is the case in many Brahmin and Vysia communities.

The amendment of the law made in 1925 raising the Age of Consent to 14 years does not seem to have come up to the expectation generally raised by such legislation, as the age raised is appreciably small, and does not give sufficient scope for proper and satisfactory discrimination to determine the age of the girl in a court of law. In short, one has to depend only upon sharp differences of opinion as to age, which depends in its turn on the physical and mental developments, precarious or otherwise.

Want of propaganda work by the Government as well as by social workers, is a great handicap in its success.

To make the law effective, I propose the following measures—

(a) Raising the Age of Consent provisionally to 17, with a view to ultimately make it conform to the age of majority 18.

(b) The Birth Registers ought to be made to record more details for easy identification, and should be so secured as to be beyond reach of tampering.

(c) It should be made a rule that birth extract should be filed in some public office, with a memorandum, as to the date and hour of marriage, etc., before the celebration of marriage. This will be specially useful to easily determine the age of the married girl or of a girl-widow. This system, if adopted, will also tend to educate the public, as a preventive measure.

(d) Propaganda literature should be broadcasted in villages in order to make people know as to the passing of a certain legislation and its effect on delinquents. I do not propose that the State should depend upon the spasmodic propaganda work of social workers.

4. It will not at all be effective.

(a) If there had been any postponement in the consummation, it is definitely due to causes other than the amendment, for want of any effective propaganda work on the part of the State.

(d) So far as my experience goes, it was never of any help directly in stimulating public opinion for want of propaganda.

(c) Marriage was not put off beyond 13 on account of this amendment. If there are such cases among Brahmmins and Vysins, they are entirely due to causes, other than the amendment. My answer to Question 3 may be read as part of the answer to misquestion, so far as it is applicable to this question.

For steps to be taken to make it effective, my answer to Question 3 may be referred to. The marriageable age may be provisionally raised to 16. Provision must be made for punishment of the concerned parties in case of disobedience. Above all, propaganda work, as suggested to Question 3, is very essential.

5. The usual age at which girls attain their puberty in my part of the country is between 12 and 13.

Yes. It differs in different castes, communities or classes of society, e.g., in castes having pre-puberty marriages, the usual age is 12. The under and more rural a community is, the higher the age.

6. (1) Cohabitation before puberty cannot be said to be common in my part of the country, except in cases where puberty is delayed beyond 13 in communities having pre-puberty marriages.

(2) Soon after puberty, I regret to mention, cohabitation is quite common in communities having pre-puberty marriages.

(3) In most cases, in communities having pre-puberty marriages the only determining factor for cohabitation is the attaining of puberty, and not the age of 13.

As suggested in my answer to Question 3, these cases do not come to court for fear of shame, and loss of prestige. Besides in the interest of the girl, such offences are hushed up as the result of collusion.

7. Certainly not. The religion proper is not so bad as to advocate such consummation, and impose any such injunction. On the other hand, it is the 'Achana' or 'Custom', which is mistaken for religion on account of its long stay in this caste-ridden country; and blindly followed as a matter of sentimental favour, on account of the inherent conservative tendency of the people.

8. 'Garbhadhan' ceremony is usually performed in my part of the country.

So far as rituals are concerned, they take place on the last day of marriage, as a matter of religious risk even in cases of pre-puberty marriages.

Unless extraordinary circumstances intervene, the ceremony is usually repeated within 15 or 20 days after attaining puberty, as a prelude to consummation.

9. Certainly not. There must be an interval of at least 4 years after attaining maturity in order to give sufficient scope for the necessary physical development in order to bear the strain of motherhood. That is to say, in my opinion, consummation may be brought about at 17.

10. Usually it is only at 18, a girl may be said to be competent to give an intelligent consent duly realising the consequences of such consent.

The reasons which apply for fixing 18 as the age of majority equally apply to this case as well.

11. I have known some rape cases before puberty, which resulted in serious injury to the uterus. I have heard of some cases where death was the result of serious wounds caused on the uterus.

I have personal knowledge of many cases wherein cohabitation after puberty, but before full physical development, resulted in serious injury to the general health of the mothers. The children and the mothers are under constant treatment of doctors, but are not yet able to recover from its effects.

12. I do consider that early consummation and early maternity are really responsible for high maternal and infantile mortality. There may be other causes as well for bringing about that mortality, such as, insanitary conditions, want of proper nursing, hereditary diseases, etc. All these other causes are merely subsidiary and cannot do any havoc on the human system, so long as the vitality in the body is not affected by early consummation and consequent weakening. Early maternity weakens the vitality and prepares the ground for all diseases to gain complete sway over her. Infantile mortality is also the result of want of vitality to resist even the commonest of ailments.

13. The general opinion among the cultured classes is that the Age of Consent should be raised.

14. Mothers do not favour early consummation of marriage for their children.

15. Please *vide* answers to 3 and 4.

16. *Vide* answer 3.

17. Yes. I would separate them into different offences. In the case of marital offences, I suggest simple imprisonment for a term which may extend to six months, or with fine, or with both.

18. The trial in camera for both the offences may be advisable. But in the case of offences without the marital state, an open trial seems to be a proper safeguard to the accused.

However I am strongly of opinion that, for offences within the marital state, trial in camera is better, and that no such safeguard as suggested above will be necessary.

19. I feel that the present safeguards are adequate.

20. There will be no need for the penal legislation fixing a higher Age of Consent for marital cases, if the age as suggested by me in 3 *supra* is adopted as the minimum marriageable age under the legislation.

Otherwise there should be penal legislation fixing a higher Age of Consent, side by side with the legislation fixing the minimum age of marriage as well, so that there might be an effective check against any sort of offence being committed under the one or the other legislation or under both.

The above suggestion is in consonance with the public opinion in my part of the country, as I understand it.

21. The expression, "progress of social reform" is too vague and too indefinite to be relied upon for any tangible purpose. Education and social propaganda cannot be expected to have any influence worth the name, in a caste-ridden country, where superstitious customs and usages play the part of religion, and conservatism is the general tendency of even highly educated men. The social and religious environments do not give much scope for the proper progress of social reform.

I strongly rely on the strengthening of the penal law to secure the object in view.

Written Statement, dated the 9th August 1928, of Mahamahopadhyaya Sastacharya, SIYA DANDAPANISWAMI DIKSHITAR, Ari., Secretary, Adwaita Sabha, Chidambaram.

1. There is dissatisfaction in so far as it penalises a husband having intercourse with his wife who has attained womanhood. In marital cases no age limit should be fixed; but cohabitation before the attainment of puberty should be strictly prohibited.

2. (1) I am for altering the law. The law as it now is, prevents the lawful intercourse with mutual consent and in natural health by husband and wife as it is natural for women to have desire for intercourse after attaining age and as illicit satisfaction might arise if the natural desire is baulked.

3. Occasional cases of rape there are. Raising the age or lowering it will not remedy affairs. To make the law effective heavy punishment must be given to the offenders.

4. The consummation of marriage has been in all cases postponed to an age later than 13. Public opinion is also in favour of consummation as early after puberty as possible. Betrothals or vivahas are as enjoined by the Shastras, done a little before puberty and consummation only after puberty.

5. The age of puberty varies between 13 and 16, the exact age depending on the nourishment of the body and the mothers' age of puberty. It does not differ among castes and communities.

6. (1) No.

(2) Yes, and the Shastras ordain it.

(3) The question does not arise as girls attain age mostly after 13 years. Such cases do not arise and therefore do not come to Court.

7. There is not a single case of consummation before puberty religion prohibits it. "Consummation may be as early after puberty as possible. The husband must take care not to make her go astray for want of intercourse in proper time. Every man should have his daughter married at all events before the age of puberty".

8. Garbhadhan is usually performed in this country. It does coincide with consummation of marriage. It is performed only after puberty and as early after as possible.

9. Yes. Physical maturity may come after in some cases. The physical nature of the body is not a factor in the strength or weakness of the progeny. Strong parents bring forth weak children. Weak parents of young age bring forth healthy children. The longevity of the child is not conditioned by the state of the body of the parents.

10. Usually soon after puberty. In a few cases a few years after and in a very few cases not at all throughout life.

11. No such cases.

12. No.

13. Fixing the age is bad. The same may be attempted in extra-marital cases.

14. Women favour betrothal or Vivaha before puberty and consummation soon after puberty.

15. It is difficult to determine the age of a girl by a look at her body. The attempt will land us into an unending series of perplexities. To remove these difficulties, I would fix no age.

16. The question does not arise.

17. Cohabitation before puberty shall be penalised whether marital or non-marital. Cohabitation cases after puberty must be divided into the two classes and non-marital cases alone are offences.

20. Legislation fixing consummation only after puberty will be more effective. The attempt to fix the minimum age for marriage is unwise.

21. Legislation is no use. No social reform in this direction is necessary as things are what they should be.

Written Statement, dated the 10th August 1928, of Mrs. G. M. SARGUNAR, B.A., L.T., Superintendent, Government Secondary and Training School for Women, Cuddalore..

1. It is rather difficult to say if there is any dissatisfaction here in South India with regard to the state of the law as to the Age of Consent as contained in Sections 375 and 376 of the Indian Penal Code. Every case of rape does not generally come to light and so far as my knowledge goes the criminal courts in South India do not have to deal with many cases of rape. I do believe that cases of rape reaching the threshold of criminal courts are so rare and far between that when one of the kind does come up it creates quite a sensation among the public. The victims in these few cases are generally over the age of 16 or very small girls under the age of 12. I have yet to come across a case in which the accused is the husband. I do not believe that this is due to anything but the sentiments of the parents some of whom are still so orthodoxly inclined as to connive at the acts of the husband without regard to consent of the little girls who are married at 5 or 6 and attain puberty at 11 or 12. Probably some of these parents would fain see their daughters mothers at 16 if they could help it. Yet it is not uncommon to come across an educated or an intelligent parent who smarts at the deed of the husband and feels constrained by several considerations not to seek the help of the law. Such as these may not care what Age of Consent the criminal legislature fixes upon. Yet I feel sure that to those Mr. Sarda's Bill will be a welcome. To his orthodox neighbour he can screen himself behind the law.

2. (2) The answer to this question must to a great extent depend upon what one considers the minimum age in a girl at which she may be considered for practical purposes to have sufficient intelligence to give 'consent' in the sense that word means. There cannot be consent to cohabitation without realizing the consequences of the deed. I seem to think, having to deal with girls of tender age for more than 15 years, that such knowledge and intelligence cannot possibly be attributed in generality of cases to girls of 15 or 14. If I am satisfied that a girl of 15 has given her consent to cohabitation (the consent law means) I should rather be inclined to think that it is an exception than the rule. I would more emphatically assert it if the offence was by a stranger seeing that in almost all such cases there is the invariable regret on the part of the victim—not to speak of the regrets of women over 16 or even 20.

3. Crimes of rape are not so frequent here as cases of seduction which is very common among the illiterate. I do not think that the amendment of the law made in 1925 has very much succeeded to prevent or reduce either of them. An additional and more effective solution must be found in education and upliftment of the masses—a supplement and auxiliary to law. And it may be reasonably hoped that should Mr. Sarda's bill be made law, the condition may much improve among the so-called higher castes.

4. (1)—(3) The answer is in the negative.

The chief step will be in the removal of certain social restrictions supposed to be based on religious injunctions. With the advance of social conditions and education these rules are slowly losing hold on the higher circle in society. Those who dare not openly defy such supposed religious injunction for fear of

society very frequently hide the truth and perform post-puberty marriage in reality. To such as these, as I already referred to, Mr. Sarda's Bill must be a good screen.

5. Hereabouts girls generally attain puberty in their 12th or 13th year. Cases are not wanting where they attain age even in the 10th or as late as the 16th year. This differs to a great extent according to the class of society to which the girl belongs. I have observed that in village parts and among the working classes the period is postponed to a much later time, than among the home-keeping and those in luxury. And I have reason to think that girls attain puberty sooner among those communities which enjoin pre-puberty marriages and 'do-nothing' but keep home after that.

6. (1) No.

(2) Very common.

(3) Rare except in cases where the girl happens to attain puberty before then. None of them has so far come to court as I know.

7. I do not know anything about the Shastric or religious injunction on which the early consummation of marriage at or soon after puberty rests. But I am interested to know that even those who speak of religious injunction in such matters do not so much rely on them with regard to the question of consummation as to that of marriage. They would say that pre-puberty is mandatory while consummation may be at any later time, though invariably it follows quick the attainment of age.

8. The term is not known here and I am unable to say anything on it.

9. I do not consider that the attainment of puberty is a sufficient indication of physical maturity to justify consummation of marriage immediately. It is difficult to say exactly what time should intervene between the attainment of puberty and consummation so as to safeguard the health of the mother and of the offspring—seeing that some girls do attain puberty even in their 10th year. Taking the conditions in India the consummation may take place between the 16th year and the 20th year. At any rate I do not think it will be advisable to bring down the age of consummation to any age lower than the 16th. I think that the physical development will be anything but developed before then.

10. I would like to maintain that a girl in India will not be able to give an intelligent consent to cohabitation with a due realisation of consequences before her 16th year. *Vide* my answer 2 (2).

11. I know of a case where the girl attained maturity in her 10th year and gave birth to her first baby in her 11th year. It was still born. She gave birth to a 2nd a 3rd and a 4th in her 12th, 13th and 14th year respectively and all still born likewise. The husband was healthy. The mother was healthy too except that she was very puny. I have known many cases where children born soon after early consummation either drag on a sickly life or do not long live. In such cases the health of the mother is very much adversely affected if the confinements are quick in succession.

12. In the light of what I have said in para. 11 the inference is reasonable that I consider that early consummation is one of the causes of high maternal and infantile mortality. It is one of the causes too vitally affecting the physical progress of the people.

13. No, I think.

14. The educated women and the wives of educated men do stand against early consummation. But there is still the traditional and the orthodox who would oppose anything new because it is new.

15. Yes. Even the medical authorities seem to experience some difficulty in the direction of determining the correct age as it is likely they should.

16. To some extent the margin of error may be minimised, by raising the Age of Consent to 14 and above. I should think that some of the chief data from which only the medical man can possibly determine the age are more or less settled at 14 or at any rate at 16 in a girl.

17. Yes, the amount of maximum punishment as now prescribed may be kept up.

18. I do approve of the difference in procedure in trials for offence within the marital state. The new Section S. 376-A, which is sought to be introduced read with the exception in Section 375, would mean that intercourse by a husband with wife not under 13 and under 14, is only a misdemeanour. This is in consonance with the law as it is in England. But I think the offence may be made compoundable.

19. No, I cannot.

20. No, fixing the minimum age of marriage is likely to be more effective. This will also be in consonance with public opinion in this part of the country.

21. I would like to rely on both. As my trend of thought may suggest I believe more in the efficacy of a law like the one attempted to be introduced by Mr. Sarda than in that of the penal law of the Indian Penal Code. It would cut at the very root of the matter. The public (most of whom here at least do not care much for the criminal justice) will be more interested in it and welcome it better. This of course does not mean that the penal law as regards rape by a stranger should not be strengthened in the way it is sought to be. As a matter of course I feel the one must come close upon the other.

Written Statement, dated the 9th August 1928, of Mr. T. SIVA-SANKARAM PILLAI of Penukonda.

1. The law is certainly unsatisfactory in regard to cases outside marriage. The reason is quite obvious. The law does not suppose that a girl even at 15 is competent to consent to a contract involving property; whereas the law in the Penal Code as to Age of Consent makes a girl even under 14 competent to consent to an act which may ruin her entire career. The same may not be said in respect to cases within marriage because it does not involve injury to her career as a wife.

2. (1) There are absolutely no conceivable circumstances in which the present limit as to the Age of Consent could be justified though its retention may not be harmful in cases falling within marriage.

(2) The reasons for justifying an advance are found in the answer to Question No. (1).

3. Crimes of rape may not be frequent though cases of seduction may more often occur. The raising of Age of Consent to 14 in 1925 has, in my opinion, not had the desired effect outside marital state. The measure that I would suggest to make the law effective are as follows:—

Make a census of girls of below 16 for every village who have no parents or guardians, who belong to castes like, Boyas, where marriage is not of much consequence and who are daughters of unmarried women like 'Devadasis' or village 'Basavis' (Prostitutes). Get these lists revised year after year in the same way that lists of unprotected children are maintained by the Vaccination Department. The local Police in their round may keep a watch on such wards and in cases of any suspicion on the part of the guardians inclined to violate the law, their names may be registered as suspects and if necessary, they may be called on to offer security for the safety of their wards. The rural organisations like 'Village Panchayats' and 'Village Courts' may be made to co-operate in such preventive work.

4. The answer is in the negative. The only remedy is to raise the marriageable age on the lines of the Hon'ble Mr. Sarda's Bill.

5. The age of 13 to 15 is commonly the period at which girls attain their puberty in my part of the country. If there is difference at all such differ-

ences are only individual largely dependent on the style of life individual families may adopt.

6. (1) Before puberty cohabitation is uncommon. It may also be said very exceptional.

(2) Cohabitation on the 16th day after puberty is very common and is believed to be auspicious inside the marital state.

(3) The answer to this is found in the observations made above. I am aware of no case of the kind mentioned having come to court.

7. The practice of early consummation at puberty, i.e., on the 16th day after the event appears to have religious significance though it is not in the nature of a religious injunction. I am aware of no authority.

8. 'Garbhadhan' 'Gaona' is consummation ceremony and is invariably performed. It is never anterior to the consummation of marriage though a symbolical ceremony takes place at the time of betrothal in many castes.

9. I do not consider that the attainment of puberty is sufficient indication of physical maturity to justify consummation. The answer to the next part of the question largely depends on the kind of life which the family to which the girl belongs leads. Generally speaking it would be conducive to health to postpone consummation for two years after attaining her puberty.

10. What is intelligent consent must largely synchronise with natural inclination. Generally sixteenth year is the period when such inclination arises.

11. My answer to this is only inferential deduced from instance of cases of early maternity and the strain which it involves barring recuperation.

12. The answer is in the affirmative. The reasons are obvious. In the majority of cases, consummation takes place before sufficient physical development is attained, retarding progress in the physical condition of the people.

13. The answer is in the negative. The reason is that cases of the kind do not see the light of day unless they happen to come to court. It may be safely said that thinking section of people in every village can be taken to be in favour of an extension in extra-marital cases.

14. Yes. It is perhaps the highest aspiration for a mother to see children's children during her life-time. It is considered a great honour to die leaving grand-children behind her.

15. Though I am not aware of particular instances where difficulties have been experienced in determining the age, it may be generally assumed that it is not an easy process to find as a fact what the age of a girl-victim is. To raise the Age of Consent to its maximum, i.e., 18, is the only remedy available to get over the difficulty.

16. If the Age of Consent is raised to, say 16, it may have the desired effect.

17. Yes. I am for separating extra-marital from marital offences. In the latter class of cases previous sanction of some competent authority may be made—a requisite before starting prosecution.

18. The present procedure may be allowed to retain.

19. The safeguards that I would suggest would be maintaining list of wards in each village in the lines indicated in the answer to Question (3).

20. The answer is in the negative. It would evoke less opposition to fix the minimum age of marriage.

21. The strengthening of Penal law must go hand in hand with spread of education and social propaganda. Very often the tyranny of custom is so great that even those who are convinced of the necessity for any measure of social reform, opposed to custom, would find it easier to take shelter under law as an excuse to break away from the tyranny.

Written Statement, dated the 19th August 1926, of Dr. S. KRISHNA-SWAMI AYYANGAR, Madras.

1. The law may be regarded as unsatisfactory in regard to the Age of Consent not going far enough to be perhaps sufficiently deterrent.

2. I am not for retaining the law as it is at present and would certainly recommend an advance on the present law. I would however, divide the cases as coming under it in two classes distinctly, consent of a girl in regard to her own husband and consent with regard to other persons altogether. The law ought to be made very much more stiff in regard to the latter. In regard to the former, however, I should not very much like making it much more drastic and in a matter of this kind it is hardly desirable. There are other influences which do prevail and deter omission of the offence, although these good influences are weakening under modern conditions. Educating of public opinion seems to me the proper form as against crimes of this kind where the offence is committed as between a husband and a wife. In regard to the other where a man involved is other than a husband, I think the law ought to be made more severe and the punishment really of a more deterrent character.

3. The crimes referred to are fairly frequent in this part of the country among certain classes. I cannot say that the amendment of the law made in 1925 has had any visible influence as far as my limited chances of observation of this particular crime go. I would raise the Age of Consent in these cases where the man involved is not a husband to eighteen at least and make the punishments much more severe.

4. In this part of the country marriage before puberty, that is, before the age of thirteen, is practised among the Brahmans as a rule. Some classes of Non-Brahmans also follow this practice. But the circumstances that lead on to or encouraged cohabitation are not so direct, and it may even be said that they do not exist, as in the case of, say Bengal and places like that.

(i) There has been a certain amount of feeling—a gradually rising feeling—to put off consummation of marriage. It is only in rare instances that consummation actually takes place before thirteen among these classes. About thirteen may be taken to be more or less the average age for consummation, and fourteen is not an unusual age for motherhood in a pretty large number of cases among the Brahmans in particular. The tendency may be said to be to postpone consummation of marriage to an age beyond thirteen;

(ii) Public opinion has been stimulated to some extent and it is getting to be more and more alive to the evils of early consummation, and as was already remarked, there is a visible tendency to put off consummation;

(iii) The question of putting off marriage itself beyond thirteen is as yet in a comparatively early formative stage of opinion. As far as my experience of it goes, I do not think it has secured sufficiently large allegiance.

The question of taking effective steps to bring about this change involves so much that is fundamental that I would recommend no steps being taken unless the general opinion of the classes concerned is in favour. There is perhaps a rising opinion among the educated classes to some extent. But in a matter of this fundamental character, I should deprecate outside legislation, and particularly, when the legislation cannot be said to come from those whom it concerns directly. Raising the age of marriage itself to beyond thirteen may solve the problem of the child widow, but will not solve the problem of young widows and all that is intended to be canvassed by this reform could be more effectively brought about by a rising sentiment in favour, and it would be better and perhaps would be more in keeping with the genius of the country that the law follows practice to some extent.

5. The ordinary age is twelve to thirteen. The case of earlier puberty is rare among the Brahmans. I believe it is 15 to 16 ordinarily among the labouring classes of the Non-Brahmans. The upper classes of Non-Brahmans,

I believe are much nearer the Brahman average than the other. Cases of puberty beyond sixteen, it is my impression, are rare.

6. (1) I cannot say cohabitation is common before puberty in any class in particular. It sometimes does take place as between a husband and a wife in classes where marriage before puberty is the fashion. But under the old system of married life, the chances were rare. But those preventive restrictions are losing their force, it may be to some extent. Still, as far as my knowledge of it goes, it cannot be said that the practice prevails to any large extent among the Brahmans or the class of the Non-Brahmans of the more or less well-to-do character. In the case of the lower classes of Non-Brahmans, it seems to be common and the cases are generally between people not under marital relations.

(ii) Soon after puberty occurs seems to be the fashion, but I think it is fast falling out of use. It has gone up perceptibly to something like six months to a year after, among the Brahmans. Among the upper classes of Non-Brahmans about a year after puberty seems to be the average. The earlier periods seem still to obtain among the lower classes of non-Brahmans.

(iii) Perhaps an enquiry will establish that there are a very large number of cases in which consummation takes place at thirteen or before.

These do not come to court often.

7. It used to be held that consummation before the sixteenth day after the first appearance was permissible though not exactly enjoined. But I believe it was taken as a more or less religious injunction which in several cases is synonymous with orthodox practice. The practice is the survival of the old idea incorporated in 'Manu' that as soon as a girl becomes capable of motherhood, she ought to be given the chance. The penalty was the bad opinion of the community. I do not believe that any other visible penalty is prescribed or a severe prescription by the law has been practised except in very rare circumstances.

8. The Garbhadhanum is usually practised among the Brahmans and the upper classes of the Non-Brahmans; not so strictly or in such recognised fashion among other sections of the Non-Brahman community. It coincides with the consummation of marriage, etc., after the attainment of puberty, generally about six months to a year after. But in the lower classes, it often does take place even now before the sixteenth day of the attainment of maturity.

8. Modern opinion is against regarding the attainment of puberty being equivalent to the attainment of the normally desirable maturity. It is generally regarded that sixteen to eighteen would be a suitable period for a girl in India to attain to her full maturity. There are numbers of cases in which the consummation at a later age has shown unhappy consequences and consummation at an earlier age has had happy results. For anything like a scientific limit of age, perhaps eighteen would be the proper age.

10. I should regard eighteen as the age in which a girl's consent to cohabitation may be taken as being responsible; perhaps twenty would be better.

11. I have no professional experience, but I have known numbers of cases in which rather early consummation of marriage even after puberty led to various womb disorders to begin with and ill-developed progeny, but in all these cases, it cannot always be said that it is the age that is really at fault rather than imperfect physical development. In a well developed girl very often these defects do not show themselves. On the contrary, I have come across cases in which notwithstanding full allowance for development after puberty having been given, the series of evil consequences have also resulted.

12. I cannot say very definitely, but I believe it is generally the case that early consummation and early maternity in modern circumstances of life do contribute to the evil consequences referred to in the question.

13. I cannot say that there is any clear development of opinion to go beyond the amendment of 1925.

14. Women are generally for early consummation of marriage for their children, certainly after puberty. They would protest if the consummation is to be put off beyond a year or two at the outside. But the feeling generally is that a year might well elapse between the attainment of maturity and the consummation.

15. I have no particular experience of the difficulties referred to in determining the age of girls. But I conceive the determination of age would be a difficult matter. The only measure possible seems to be a general and strict register of births and the preservation of a correct record of these. Otherwise the ordinary means of ascertaining age by enquiry or medical evidence seems the only possible way.

16. I do not believe there would be much reduction of the margin of error by just raising the Age of Consent to fourteen, as ordinarily the difference between thirteen and fourteen may perhaps be so clear. But if it is a question of taking any steps to raise the age, it certainly would be distinctly to the advantage of everybody concerned to raise the Age of Consent in non-marital cases to something like eighteen. I would say eighteen frankly, and in cases of the Age of Consent of the wife to the husband, I would leave the law as it is. Stronger sentiment grows in this part of the country, where, as I have already remarked, the tendency to these is not particularly great.

17. Yes; an extra-marital offence of this class ought to be made a crime and punished as a serious crime, the punishments being sufficiently deterrent to prevent the commission of crime. In the case of a marital commission, although morally it is no less a crime when the husband commits it upon the wife, the arrangement ought to be of a very deterrent character, if a premium should not be put upon perjury. I would not object to raising the Age of Consent to fourteen in this case, as perhaps not making very much of a difference, although it would just increase the marginal chances of addition to the number of virgin widows. The punishment in this case may be of the nature of a heavy fine, together with the evil consequences; well directed education would enlighten people against this evil and would be sufficient to prevent this kind of offence. Section 276 is quite good enough, I think, for that. Only I would remove the clauses within brackets or modify them in the sense indicated above.

18. I should advocate a difference in the procedure of trial between the two kinds of offence. The non-marital offender ought to be regarded as a criminal whereas when a husband commits the crime, he ought to be considered a fool and pitied, as he is bound to bear the consequences of his error. He might be tried as a civil offender and not exactly as a criminal which the other one ought to be.

19. The discrimination recommended above perhaps would go some way towards preventing collusion in the marital condition. But in the other case, collusion ought to be treated as abetting. Proper safeguards ought certainly to be provided against improper prosecution and extortion, as in the case of every other crime almost.

20. I do not think that a higher Age of Consent would necessarily raise the age of maturity. There is a growing rise in the age of maturity, and I have no doubt it will go on improving as time goes on. I do not think the raising of the Age of Consent would affect it materially. The raising of the age of maturity may be desirable in itself. But I should much rather prefer that it came about by the rising sense of the community itself rather than by external legislation.

21. I should certainly prefer to rely on the latter. The improvement of the feeling of the communities concerned in regard to the matter, and that should be stimulated by means of education first, propaganda as to the evil consequences next, and that will be a surer way of bringing about healthy changes.

Written Statement, dated the 10th August 1928, of E. RAGHAYA REDDI, Esq., B.A., B.L., Advocate, Nellore (Madras).

1. There is no dissatisfaction.

2. The Law of the Age of Consent may be retained as it is. According to the Indian conditions a girl of 14 is quite capable of forming a correct conception of the sexual intercourse and giving consent to it. The surroundings in which the Indian girl is brought up always instil into the mind of the Indian girl the idea of married life and the idea of maternity.

3. Crime of seduction is rare. Crime of rape also is rare. Report has it that in some places or villages where there are powerful rape cases sometimes occur but these do not come to court. The average Hindu respects the quality of chastity in woman and rarely molests who lead a family life in a pure manner.

4. The amendment has no effect one way or the other as consummation usually takes place beyond 13.

5. Between 12 and 13 among Brahmans and Vysyas generally. In other classes between 13 and 14 generally.

6. (i) No.

(ii) Sometimes.

(iii) Not common.

These cases do not come to court.

7. No consummation before puberty. Consummation of marriage at puberty unsexual.

This is not the place for discussing Sastric texts.

8. It is performed.

Even in case of ante-puberty marriages Garbhadhan mantras are recited and some sort of ceremony is gone through at the time of marriage. In the case of post-puberty marriages (which do not conform to any fixed age) Garbhadhan ceremony coincides with consummation of marriage. In the case of ante-puberty marriages it is again performed generally within a year after puberty at consummation.

9. No less than four menstrual periods should elapse before consummation. Normally it is advisable to wait for at least one year after puberty. Mere attainment of puberty is not a sufficient indication of physical maturity.

15—16. I cannot answer.

11. No.

12. I cannot answer.

13. No, one thinks of this.

14. Women generally show great common sense in this matter. They take into consideration the physical condition of their daughters if they are firm a free choice. Sometimes in ante-puberty marriages they are.

16—16. I cannot answer.

17. They must be separated.

Present law suffices for extra-marital cases. In the case of marital cases some corrective and reformatory methods on the analogy of juvenile offenders may be adopted. One must not lose sight of the fact that the conviction of the husband under the present law practically ruins the family life, which amounts to the practical ruin of the wife according to the Hindu notions.

18. The present procedure suffices for extra-marital cases.

In the case of marital cases trial by a First Class Magistrate and investigation by a superior grade police officer and trial in camera are suggested. Admonition to the offender may in general suffice for marital cases. There are so many restrictions in the Hindu household which render cases of rape on the part of the husband very rare.

19. No.

20. The fixing of the minimum age of marriage is simpler and more effective as this has the merit of avoiding unnecessary meddling by the Police with the Indian family life. This also avoids the frequent friction between the families of the husband and the wife from the date of the consummation of marriage. Except among Brahmans and Vaisyas marriages take place usually after 14. The raising of the age of marriage will be in consonance with the usages and practices of the majority of the population as 90 per cent. or more practise post-puberty marriages.

21. Both are necessary.

Written Statement, dated the 13th August 1923, of Mr. K. S. KRISHNA SASTRIAL, Principal, Madras Sanskrit College, Myslapore.

Special attention is requested for what I say in the opening paragraph. My answers follow later.

According to Shastras, a man ought to cohabit with his wife during the Ritu season. ऋतौ भार्या सुपगच्छत्. The Ritu season begins from the fifth day from menstruation up to the sixteenth day. It therefore ranges for twelve days. Dharma Shastras and medical works hold that it is only that season which is conducive to conception, provided there are no defects. Cohabitation after the sixteenth day will only serve as an outlet for a man's energy and for the ventilation of his passion. Vedas and those learned in them will not countenance any futile act which results from mere passion. People who according to Vedic injunction, regulate their conduct within the twelve days as aforesaid will find only a few days available for intercourse, as the Shastras prohibit cohabitation on Vrata Dinās and Pitru Dinās even in those twelve days. A wife, is she, whom a husband marries lawfully provides with food, raiment and ornaments and looks after, like himself. A husband ought to protect her for the sake of meritorious acts and for progeny. The temporal happiness consequent upon the same is only an incidental gain. In all countries, girls attain puberty generally after the age of twelve. Even afterwards, it is only one in ten that becomes mature at the age of thirteen. In all other cases, it is only after the thirteenth year. And this accounts for the fact that sages are unanimous in laying down that the marriage for the Brahmin girls should be celebrated between the 8th and the 12th years. Menses, it is said, is only the overflowing blood which does not contain in the body. It is a matter of daily observation that after completing the 10th year, girls who are in their eleventh and twelfth years leave the tendencies of children, grow shy and remain aloof even from their own fathers and brothers. The reason for that is that they have begun to entertain ideas of sexual happiness. There is therefore no doubt that when a girl attains maturity after her twelfth year, she has got a longing and capacity for intercourse, and within the 16th day after her attaining puberty, her consummation should take place. So say the Shastras. If, by some reason, it has to be delayed, it must be performed within the 16th day of the second menstruation or of the third so that there may be no room for secret vices while she remains in her father's home.

Answers.

1. There is no room for a husband to commit rape on his wife before the thirteenth year before she attains puberty, as she remains in her parent's home until she becomes matured. If after attaining puberty she come to her husband's home and the ceremony of consummation is performed during the day and intercourse takes place in the night, what reason is there to suppose that the girl is not agreeable to an intercourse with the husband?

Where is the reason for the husband exercising any force? Sections 375 and 376 therefore have barely any scope in this matter. Perhaps a married girl may not agree to the intercourse by reason of natural shyness. In such a case, if the husband manages to shake off her shyness and cohabits with her, will she not be a consenting party to the same? What offence is there in it? Perhaps if a girl is married to a person not handsome by reason of which she detests him, if she is particular about her chastity, she will certainly adjust herself gradually to her husband and she will not bring any case in any Court; but if she is indifferent about chastity, she will probably bring a case against her husband for forcible intercourse. Even in such a case, is not the duty of a ruler to provide means for advising her properly so that she remains faithful to her husband? And if she persists in unreasonable conduct in spite of that, it is she that deserves to be punished, and not the husband. This is with reference to married women and this is true with reference to all cases. Therefore I conclude that there is no scope for the previous amendment itself.

2. There may be case of rape on married wives by males other than husbands. But as it is a disgraceful act, the relations of the women will, of their own accord, prevent a repetition of the offence by giving proper advice. If such cases come to Court, the wrong-doer may be punished according to his desert. In this matter, there is no question of raising or reducing the Age of Consent. Sometimes in those castes where marriage is performed after puberty, it is possible for rape to be committed on an unmarried girl. In this case, the wrong-doer ought to be punished.

Brahmins perform marriages before puberty even to-day, and some high class Non-Brahmins also follow this practice. Others do it after puberty. In all castes our women have maintained a very high ideal of chastity and followed it up in practice till now.

3. Generally the crimes of seduction or rape are not frequent here. To my knowledge, no such case has come to courts in the Brahmin community. In other castes, there may be rare occurrences. But I have no personal knowledge. I have heard of cases of such offences committed in other parts of the country. For the prevention of these offences, the Government ought to take steps to spread broadcast the ideas of Virtue and Vice as determined by our Dharma Shastras and Puranas, Itihasas, etc., which preach moral lessons.

4. Where is the scope for married girls to cohabit with their husbands below the age of 13? In the Brahmin community, the married girls remain in their parents' homes until the age of 13 and go to their husbands' homes after attaining puberty. In other castes marriage is performed after the age of 13 and after the attainment of puberty. If the legislature takes it into its head to enforce the marriage of Brahmin girls after the age of 13, it will be ringing the death knell of our religion and all ideas of caste and morality. Therefore the legislation should not interfere in any way in fixing the marriageable age of girls.

5. Girls usually attain puberty after the age of 12. This does not differ in different castes or communities. The attainment of puberty in some cases below the age of 12 and after the age of 17 or 18 is attributable to the abnormal conditions of body in individual cases.

6. (a) In our part of the country there is no cohabitation before puberty.

(b) Soon after puberty, if the menstruation has been proper there is permission to celebrate the consummation within the 16th day, and it does happen so, although not always. Usually it is done after two regular monthly courses of menstruation. But if there has been proper menstruation the Shastras enforce consummation within the 16th day. It is only for ascertaining that the menstruation has been proper, the consummation is delayed for two or three months. If marriage is not performed within the age of 12, it is certainly objectionable in the eye of the Shastras.

(v) As girls attain puberty in the age of 13, where is the question of cohabitation commonly taking place before that age?

7. There is no practice among us to celebrate consummation before puberty. It is the opinion of the Shastras that consummation should be performed soon after puberty. Shastras enjoin cohabitation in every Ritu season. Ritu season has been already described to cover 12 days. The idea of Shastras is that there should be good offspring. It is only Ritu season that is conducive to conception. If the first menses has been faultless, the child conceived in the first Ritu season will be strong, hale and intelligent. If the first Ritu season is allowed to pass, the person responsible makes himself responsible to sin of infanticide. Shastras have even gone the age of girls saying that there are as many embryo murders as there are Ritu seasons allowed to pass without the celebration of consummation. The religious injunction enjoining intercourse in the Ritu season is imperative.

8. In our part of the country, the Garbhadhana ceremony is usually performed in the night on the day on which Rutisanti is performed during the day-time. It is generally performed as early as possible after the attainment of puberty.

9. The attainment of puberty is a sufficient indication of the physical maturity of a girl. If the menstruation has been proper, there is no need for postponing consummation. But in case of sickness or any other disability, it may be postponed.

10. A girl can be considered to be competent to give an intelligent consent to cohabitation with a due realisation of the consequences, as soon as she attains puberty. As a matter of fact, in ordinary parlance, a girl

is said to have known (ਪ੍ਰਤਿਬਧਿਤਾ) when she attains puberty.

11. No such case has come to my notice.

12. I am not prepared to concede that consummation at the age of 13 will increase maternal or infantile mortality. Infantile mortality is attributable to unclean food, bad climate and the bad practices of the day.

13. The orthodox people resent any interference of legislation in the matter of enhancing the marriageable length of age. It is only the irreligious that welcome legislation on this point. We are not concerned with that.

14. The women in our part of the country desire consummation of their daughters soon after puberty.

15. The difficulties, if any, will be removed by celebrating consummation of their daughters soon after puberty.

16. There is no need for determining the age and therefore no question of difficulty or margin of error. The attainment of puberty is the proper time for consummation.

17. Yes.

18. If cases come to Courts, it is desirable there should be separate procedure for the two classes of cases.

19. In the case of rape upon an unmarried girl, the offender must be made her husband if the girl is willing. If she is unwilling, the offender must be severely dealt with, as she is deprived of an opportunity to find a husband.

20. I do not consent to any legislation in this matter in connection with marriage. Legislation is proper only in the case of forcible intercourse by persons other than husbands. In such cases, the wrong-doer may be punished. But, provision ought to be made for permission for effecting an amicable settlement, out of Court.

21. The education of males and the imparting of religious instruction to males and females will alone, in my opinion, bring about a satisfactory solution.

**Written Statement of Srimathi SRIRANGAMMAL and 5 other ladies,
3/4, Car Street, Triplicane, Madras.**

1. The masses are not even aware of the existence of such a law.
2. Judging the matter theoretically, no man, stranger or husband, ought to be allowed to violate a girl until she is capable of giving her consent, least of all when she is quite immature both in mind and body.
3. Even if such cases should actually occur, they are not allowed to become public because, once the matter is published it would be impossible for the girl to get married ever afterwards.
4. We do not believe that the change in the law has effected a great improvement. To keep the boy-husband under control, girls are sent away to their husbands' house even before they attain puberty and the girls attain puberty only sometime after their nuptials. The parties connive at it and society winks at it. Though we know of some such cases it would be impossible to prove them; but facts are facts all the same. Our idea in order to prevent immature girls being tampered with, we propose that the Age of Consent should be put off as late as possible, age of majority, that is 18. We put it apparently so high for two reasons—
 - (1) the expressions in the Section "against her will and without her consent" carry no significance until a girl gets the capacity to will and to
 - (2) consent. (2) If you put the age so high you can surely prevent rape on girls of 13 and 14. A man cannot escape by purchasing a false medical certificate when there is such a wide difference in age. We must always have a few years over the age below which there ought to be no violation.
5. Our girls attain puberty at about the age of 13.
6. Cases of cohabitation before puberty are not common except in the case mentioned above, where nuptials are celebrated to keep the boy-husband under control. The majority of the cases are celebrated immediately after puberty, even within a few weeks. Such cases do not go to court. Once a girl is given away in marriage to a boy, according to custom she is dependent upon him for life, and even after his death, his ghost stands up for him and prevents her from getting remarried. So as soon as the girl attains puberty her parents in their view of her interest are absolutely at the back of the boy and his elders. He is in a hurry to get his wife and sets up his parents to bring the girl home and they themselves are anxious for an additional domestic servant. So the girl is brought to her husband's home very soon after puberty.
7. We are not aware of any religious injunction in the matter.
8. In our community the *Garbhadhan* mantrams are recited on the fourth day of the marriage when the immature boy and girl are asked to lie down together with a Kusa grass between them. A single bedsheet is covered over them both for a few minutes. At the time of the nuptials later on, after the girl attains puberty the same mantrams are recited. Among other Brahmin communities, in whichever house the boy may be living the first three days, on the fourth day both the boy and the girl ought to sleep in the same house.
9. We do not think that the girl is fit for copulation immediately after puberty. Except in cases where the girls are brought up under such ideas, the innate urge does not come until long long after, i.e., about 18 or 20 years; and we think that the innate urge is generally the test.
10. Girls in India are not educated. They are not taught anything more than what is absolutely necessary for cooking and doing other domestic services. Least of all are they taught anything about sex. Therefore it is only long after that they gain any experience when it is too late. It is

only their own bitter experience that opens their eyes. We would put it about 20 years.

12. We do consider early consummation and early maternity are responsible for all these things. We cannot educate the girls to any decent stage if the girl gets married. Immediately after the ceremony, say about the 12th year of the girl, the mother-in-law issues an order not to send the girl to school. So no education at all. Physically early nuptials shatters her health and her children are still worse and especially in the Brahmin community puny issues are very common.

13. There is a general desire to raise the status of woman and raising the Age of Consent is one of the items.

14. The girls' parents do not desire early consummation, but once they get their girls married before their puberty and the girls are altogether dependent upon their husband, their parents have quietly to send them away for an early consummation to their husband.

15. We are not aware of any legal cases. Surely no medical man can say exactly the age of a girl within a difference of two years. It would be impossible for anybody to exactly determine whether a girl is 12 or 13. Therefore we propose to always have two years over the age below which there ought to be no such crime.

16. The margin of error would be minimised if the minimum age is put down at 18.

17. We would differentiate between the two. A stranger has no business to violate a girl under any circumstances. He must be punished severely, but with the husband it is different. He gets possession of the girl immediately after puberty, his temptations are strong, the average living room on a house is very narrow, custom connive his parents supports him, so under these circumstances if he falls he should be punished quite differently from a stranger. We would punish him with imprisonment only to keep him off from the girl till she attains her 18th year, and of course the fine, if any, will stand as it is.

18. Especially in non-marital cases the trial ought to be strictly in camera because the girl's reputation would be shattered and it would be almost impossible to get her married to anybody, and if she is already married the husband would refuse to take her back.

20. Fixing the minimum age of marriage at 18 would solve many difficulties in marital cases. The age ought to be 18.

21. We rely upon both the Penal Law and in education and social propaganda. People cannot rise to their ideal against their custom unless they are backed up by Penal Law.

Finally we believe that in the recent awakening of India to the possibility of her powers of self-determination, the Almighty God has appointed you to advocate the cause of the poor, illiterate helpless and ignorant female population of India and raise their status to enable them to strengthen the hands the other sex which alone is now practically fighting to liberate India. Feeling sure that you will discharge the duty entrusted to you with heart-felt sympathy for our sex and a high sense of responsibility.

Written Statement, dated the 13th August 1928, of Mr. G. LAKSHMANA REDDY, B.A., Gooty.

1. There is dissatisfaction in these parts with regard to the law as to the "Age of Consent" as contained in sections 375 and 376, Indian Penal Code. A number of dancing girls who are minors but above the age of 14, enter on a life of prostitution soon after they attain their puberty and it is the imperative duty of the State to interfere and put a stop to such a state of things by penal legislation.

2. The malpractice of dancing girls and basivis (a sect of people who dedicate their young girls to the service of a diety) entering on a life of prostitution soon after attaining puberty justifies, in my opinion, that an advance on the present law is a *sine qua non*.

3. Girls belonging to the Brahmin community, Vaisya community, and some girls of the other high class Hindu communities ordinarily attain their puberty at the age of 14. The girls of these communities do not generally occupy themselves in any work involving much physical labour. Hence their early puberty.

Girls belonging to the other communities, like the Kapu, Kamma, Boya, Muhammadan, Madiga and other communities, attain their puberty ordinarily at the age of 16 as they labour hard in the fields.

6. (1) No cohabitation is common in these parts among any class before puberty.

(2) Among Vaisyas cohabitation is common soon after puberty. Among the non-English-educated Brahmins also the practice is common. The English-educated Brahmin, in many cases, defers consummation to his daughter for some time after she attains puberty.

8. *Gurbbadhan* ceremony is usually performed among the Brahmin, Vaisya and some of the high class Hindu communities. This ceremony generally coincides with the consummation of the marriage. It is invariably performed after the attainment of puberty and on the day of the consummation of the marriage.

9. Attainment of puberty is no sufficient indication of physical maturity to justify consummation of the marriage. Ordinarily two years after puberty a girl's physical development may be considered to be enough to justify consummation without injuring her own health and that of her progeny.

10. At the age of eighteen ordinarily.

12. Yes.

13. The enlightened educated opinion is in favour of extension of the Age of Consent in extra-marital cases.

14. No educated female favours early consummation of marriage to her children. Illiteracy is rampant in these parts.

17. Yes. Extra-marital offences should be visited with imprisonment. Marital offences should be visited ordinarily with fine.

18. Extra-marital offences may be tried as an ordinary offence in open court. Marital offences may be tried *in camera*; marital offences that come to court are very few and far between. It is not desirable to try these offences in open court as any other offence, since sensation-mongers throng during the trial of such cases and the parties may feel it delicate to open themselves to public comment or ridicule.

20. No.

21. I prefer to rely on the strengthening of the penal law rather than on the progress of social reform by means of education or social propaganda. The latter method would be ineffective in these parts where priesthood is holding sway and is ever ready to invent and quote scriptures to the credulous masses in favour of the existing practice.

Written Statement, dated the 13th August 1928, of Mr. K. VYASA RAO, Triplicane, Madras.

1. There is not as much dissatisfaction as may be justifiable, as public opinion has been too exclusively directed towards political questions and social problems have not obtained sufficient attention.

2. An advance in the law relating to the Age of Consent will greatly help those parents of girls who would postpone their consummation but for being hurried by the husbands or parents-in-law of the girls. This hurried consummation after the present inadequate Age of Consent is doubtless injurious to the health of the girls and their progeny and a further postponement of the Age of Consent at least to 16 years will make a very beneficial difference. Mostly, consummation in those castes where pre-puberty marriage is the rule takes place between 14 and 16, and I would urge the Age of Consent being fixed at 16. *There is no good meddling with the existing law unless the age is to be raised to 16.* I hold this view because 14 is too low an age and secondly because as consummation in most cases takes place at about 14 now, the raising of the Age of Consent to 14 will be inappreciable in its good. In fact, the change in the law will be unnoticed even if the age were raised to 15. On the other hand raising it to 16 will make the change in the law well-known and the full benefit of a proper legal age of consummation will be secured by legislation.

3. I should not think crimes of seduction and rape are "frequent" in the Madras Presidency. Cases of desertion of or by husbands, followed in some cases by re-union, seem to be somewhat frequent in lower orders--but I would not class them under "seduction". I am afraid it is too soon to judge of the effect of an amendment of 1925; but for some time, from even before 1925, the tendency has been to raise the Age of Consent outside marital relation to 14 and above as the result of a general awakening. Outside marital state I would raise the Age of Consent to 18 unhesitatingly, and within the bonds of marriage to 16. In other words outside wedlock those who have not completed 17 years will be incapable under the law to consent to sexual union, while within wedlock those who have not completed 15 years will be incapable to consent to such union--the latter offence falling under the category of "illicit sexual intercourse".

4. Not much, as the law lags behind the prevailing age generally.

5. Age of puberty differs according to castes and communities, generally between 12 and 14 in communities where pre-puberty marriage is the rule.

6. (1) Not before puberty.

(2) Sometime after puberty--say from about 1 year to 3 years--although there are cases in which consummation follows puberty within a much shorter period. Various conditions and circumstances go to determine the time of consummation after puberty. I have not known of these coming to court.

7. No. There is no injunction as to consummation regarded as of current authority or of any religious validity at the present time. The only religious injunction that prevails as such is that among Brahmans of South India--a girl should be betrothed before puberty. But even this is in many instances honoured in the breach, either on account of suitable bridegrooms not being available or on account of desire on the part of the parents to educate their daughters up to a certain standard before marrying them.

8. *Garbhadhan* as is known and practised in South India is an integral part of the ceremony of consummation--performed after puberty.

9. Mere attainment of puberty, apart from the general physiological condition of the person cannot be a sufficient indication of physical maturity. An arbitrary age has to be fixed as exceptional cases on either side may occur--for instance, before the legal Age of Consent (16) in exceptional cases a girl may be fit for cohabitation; and in other exceptional cases she may not be fit even after 17. A parent has to look to the interests of his child in the latter case and the law cannot at present prescribe other conditions of fitness for parenthood. Nor can it allow early consummation as a rule, because in some rare cases conditions might seem to favour it. Public policy demands that an age shall be fixed before which cohabitation shall not take place as husband and wife or as unmarried man and woman.

10. Generally about 17 outside wedlock.

12. Especially when the girl is physically weak, compared with the husband and where poverty prevents the girl from getting good and adequate nourishment, the married life is a torture and misery and such cases may always occur although the Age of Consent may stand higher than it does at present. Any economic condition verging upon practical destitution is as much responsible as early parenthood for pre-maternal and infantile mortality. The mere enactment of a stiff Age of Consent Act alone cannot be expected to cope with pre-maternal and infantile mortality. Conditions of housing, adequacy of nourishing food, and clean and hygienic living are potent factors indetermining mortality of expectant mothers and babes.

13. Public opinion will not be averse to raising the age in these directions, although the Bill introduced by Mr. Haribilas Sarda stands on an entirely different footing and is beset with conflicting considerations that will demand and deserve the anxious consideration of the legislature and of His Majesty's Government in India.

14. No. Opinion is rapidly changing in favour of postponement—of the agonies of child-birth—brought about by early consummation.

17. I would classify under a different name offences within the bonds of matrimony; while the punishment for offences outside wedlock will be severe and include imprisonment of either description, the punishment for offences within marital state will be fine with or without simple imprisonment which may not exceed one year.

18. I would make trials of alleged offences within marital state not open to the general public and would authorise them only on the report of a judicial officer of the rank of a Second Class Magistrate and the prosecution shall be conducted by a Crown Prosecutor and not by the police.

20. A higher Age of Consent will be more effective, less open to objection and, without it, no law relating to marriageable age will be of any use. Undoubtedly raising the Age of Consent would be more in consonance with public opinion, as it stands to-day. If Mr. Sarda's Bill is to be of any use, it could be of use only if it could render invalid all marriages punished under it and it will be a great advantage if marriages of girls before they have completed the age of 8 years are rendered invalid, as such a law will at once stroke make it impossible for any child-widow or 8 or below 8 to exist. And there is no injunction making it obligatory on any parent to marry a girl before 8. As a matter of fact, marriageable age has gone up to 12 and above now-a-days. We are not gaining much by punishing parties to the marriages of girls below 12 or 13. The object of legislation must be clear to the authors of the legislation. Our object, so far as South India is concerned, has not to be to force practically on the Brahman population of South India a kind of nominal post-puberty marriage by force of legislation. Mr. V. S. Srinivasa Sastry (now the Rt. Hon'ble) introduced a Bill in 1913, if I am right, in the Madras Legislative Council to legalise post-puberty marriage, while there was no inclination anywhere to challenge their validity and he ultimately withdrew the proposed measure as unnecessary. Mr. Sarda's effort now seems to be practically to punish pre-puberty betrothals; the one misses the object of legislation as much as the other. Our object ought to be firstly to very appreciably raise the Age of Consent, apart from the age of betrothal, for which public opinion is prepared and which will automatically tend to raise the age of betrothal also. Secondly, in regard to the age of betrothal to illegalise all betrothals below 8 as they are not enjoined by the Shastras and not even the most orthodox are required to perform the betrothal of a girl which is one of the Brahmanical sacrament before she is 8. There ought to be no legal betrothal before the completion of 8 and no legal consent for consummation before the completion of 15. If the other parts of India will not agree to a prohibitive legislation in regard to betrothal, they may be left to legislate for themselves. I would make the age of betrothals a fit subject for provincial legislatures and remit Mr. Sarda's Bill to the Provinces, retaining

the law in relation to the Age of Consent as a part of the general penal law, falling within the authority of the Central legislature and applicable throughout the country.

21. Social Reform and Education cannot dispense with necessary assistance from the legislature; and after all I consider that the question as to when man and woman can come together as parties to a wedlock or otherwise is a matter in which the law of the land must have an explicit voice. .

Written Statement, dated the 12th August 1928, of Mr. YAGNESWARA SASTRY, B.Sc., B.L., Mylapore, Madras.

2. *Regarding extra-marital cases.*—Laws fixing the Age of Consent imply the proposition that premature sexual relationship is injurious to girls, but that at a certain age, they are sufficiently acquainted with themselves and the facts of life to be fit to govern themselves as they please. From the point of view of absolute morality, the Age of Consent should be the age of majority or eighteen. Future generations will wonder at the quaint state of our law which permits girls of fourteen to make contracts regarding themselves, but insists upon the age of eighteen before they can make contracts regarding their property. But consistency and justice do not always mark mankind in their dealings with women or the affairs of sex. We, therefore, get a compromised morality fixing the Age of Consent at fourteen generally. The tendency of legislation is to approximate to absolute truth, as far as possible, and to the extent this has not been done in Sections 375 and 376, there is a defect.

Regarding marital cases.—Again, the Age of Consent is truly a girl's age of self-knowledge, a pure subjective condition of her mind. This subjective condition is the same, irrespective of the objective circumstances, whether it is a Muslim or Christian, European or Indian, stranger or husband, who offends against a girl's person. Absolute morality requires a single Age of Consent. The fact that in a case, a husband is the offender, should be a ground for extenuation for reducing punishment, but not a ground for exculpation for complete acquittal. As the Age of Consent is fourteen for offences outside the married state, the barest consistency requires that it should be the same even where husbands happen to be the offenders. This is the second defect apparent in our law.

Sir H. S. Gour proposes to raise the age to sixteen for adjudging extra-marital offences. It would, therefore, be best to fix the same age for the other class of offences also. Doubtless expediency and compromise has necessitated his making a concession to clamorous husbands. The compromise itself may be supported, but not without deploring the necessity for it, and the perpetuation of the anomaly of a double standard.

4. The worst offenders against natural morality are to be found in the South Indian Brahmana Community. But even with them, consummation of marriage usually takes place after puberty and after the age of thirteen. Therefore, in fixing the Age of Consent at thirteen, the amendment of 1925 was like Don Quixote attacking an enemy that was largely illusory. It made a gesture of legislative courage and social advancement. But what it really did was to take legislative cognisance of an existing practice and lend ratification to it.

There is a second reason for the failure of the old amendment. Puberty is a great physiological fact producing substantial morphological changes in the external appearance of individuals. Girls before this age can seldom pass off for girls above it, but girls below that age can easily simulate one another. The Age of Consent should be above the age of puberty by at least a year. Then it would be difficult for offenders to escape.

9. The age of puberty seems, indeed, the criterion of the proper age for consummating marriages, but it is deceptive. The age of puberty is about 18 in Europe; it is about fourteen in India. Such a marked difference between Western and Indian girls regarding a matter of fundamental biological importance, cannot be ascribed solely to causes like the climate. Man must conform to nature; if he does not, nature adapts itself to man. The continuous practice of child-marriage and its early consummation has lowered the age of puberty of our girls, and what is purely a physiological phenomenon in normal women is in India pathological to a considerable extent. Therefore from the point of view of national welfare, that age at which girls cease to grow in height, is the period at which they may consummate marriages without detriment to their health and that of their progeny.

10. The answer has been given by the Indian Contract Act, and the Indian Majority Act. It is only when the mind is coloured by tradition or fettered by scriptures that difficulties arise.

11. Common observation is enough to answer the question, and theories may be dispensed with as well as the testimony of experts. In England no man less than six feet is eligible for the Police Department. Such a rule enforced in India would mean the end of all police force in India. Our short stature is the more significant, as in warm climates like that of India, animal structures usually attain their maximum development. Through the early consummation of marriages, the stature of our women is stunted and through them the Hindus are gradually becoming a race of dwarfs. A few stalwarts are however left.

Also, it is a conspicuous fact that European women usually look younger than they are, while the reverse holds good with Indian girls. This is partly due to the "make up" of the occidentals, but also because a greater vitality rejuvenates them. In Madras there is no system of Purda and plenty of ocular evidence is available as to the disastrous consequences of the practice under consideration.

14. When Lincoln tried to free the slaves, the slaves themselves opposed him. When Mr. Gokhale wished to abolish indentured labour, some of the labourers were hostile. When in 1911, the National League of London sent reply cards to the women voters of a country council to ascertain if they wanted to vote at Parliamentary elections also, 18,850 as against 5,579 answered in the negative. And the strongest opponents against the measures in Bombay for abolishing brothels are the victims themselves of the infamous system. But wise legislators always distinguish between the innate and the induced opinions of people and consider only the former.

In appraising the innate views of Indian women regarding the age for consummation of marriages, their induced voice is no guide at all, for it is not their voice. The demands of those women who have had equal opportunities with men for forming and voicing their own views is the only representative demand, and it has expressed itself unanimously against the early consummation of marriages through numerous Women's organisations in the Presidency.

18. "The A. B. Patrika" of 19th June 1928 reports a very significant observation of Justice Boys. "There can be no doubt," says he, "that in the past there has been a tendency to overlook perjury in matrimonial suits, and it is more than possible that the idea has become prevalent that no consequences will follow deliberate lying in Court in matrimonial matters." The reason why perjury specially marks matrimonial causes, why they are generally condoned, has not been adverted to in the judgment, but it is obvious and has a bearing on the question under consideration.

It is unfair to drag before spectators in Court, the personal relationship of married persons. It is natural if sensitive persons try to protect themselves with a lie, and it is sympathy that makes Judges condone them. The open trial of marital cases also makes justice painful to obtain. It

degrades parties to it, and vulgarises the public. And Courts lose their dignity in becoming the rendezvous of idlers and sensation-mongers.

I remember the occasion when a young Brahman was charged with the offence of murdering his wife. He was acquitted, and I think rightly, but the case was not free from doubt. Yet the verdict was acclaimed with applause, which, under the circumstances, indicated that there is a section of the Indian public who are only happy to explain, condone or disbelieve any offence which an Indian husband may commit against his wife. It will not be a fair trial that is conducted before a throng of these peculiar hero worshippers.

20. The problem of fixing a suitable Age of Consent is related to the other question of fixing the minimum age of marriage, and reformers considering the one question are often asked to tackle the other, as more effective or as more expedient. In the result, the women of India are tossed between the Bill of Mr. Sarda and that of Sir H. S. Gour, without finding refuge in either. Legislation fixing a suitable age of marriage would make the other measure fixing a higher Age of Consent for marital cases superfluous, indeed; but one Bill cannot wait for the other.

Written Statement of Dr. C. RAMANUJAIYA, L.M. & S., District Medical Officer, Chittoor, Madras, Madras Presidency.

1. Yes, because Indian women cannot exercise discretion in the matter of marital relationship, nor can they protect themselves from the amorous attempts of unscrupulous men leading to criminal acts.

2. (1) I am not in favour of retaining the law as it stands.

(2) (i) To give the female sex their place in society so that they may be the makers of their destiny.

(ii) To prevent the severe maternity and infantile mortality which is the order of the day mainly due to the indiscriminate way parents contract marriages for their children.

(iii) To mitigate the percentage of criminal acts, such as rape, seduction, etc.

3. Not within my province to answer.

4. (1) I do not think the amendment really postponed the consummation of marriage because such illegal cases were never brought to light and punished.

(2) To a certain extent, public opinion appears to have been stimulated.

(3) The amendment was never instrumental in putting off marriage.

I would treat the case more radically and put the Age of Consent at 16, which will open the eyes of many and the delinquents looked for punishment without mercy. I have no doubt there would be some stout opposition from certain orthodox quarters—but this may quietly be ignored as the same orthodox set do sometimes postpone such marriages when suitable bridegrooms could not be settled. I am sure time will heal up the socio-religious sore that the new Act may leave behind.

5. Average age of puberty in Madras Presidency is about 13 with exceptions ranging from 11 to 16 mainly due to environment. Amongst the villagers, girls attain puberty later, but in town-life where the stimulus of the present day civilisation works, girls attain much earlier than the average.

6. (1) Cohabitation is not common before puberty.

(2) Common soon after.

(3) In many cases before 18 years.

7. As far as I am aware, there is no religious injunction but it is due purely to social custom which has probably been the result of foreign invasions to which India was so frequently subjected to in the early period of its history.

8. *Garbhadhan* ceremony is usually performed. It coincides with consummation of marriage and performed soon after puberty except in educated circles, where the tendency has been lately to postpone it.

9. Attainment of puberty is certainly not, in my opinion, a sufficient indication of physical maturity to justify consummation. I would have consummation done 3 years after puberty or not earlier than 16 years. This would ensure a healthy mother and healthy progeny.

10. A girl in India would be competent to give an intelligent consent to cohabitation at 16 years—the margin of error inclining to a higher age.

11. The first confinements in many cases, are a danger in India, as the girls being younger and unfit for such, run greater risks such as tears of parts, difficult labour requiring instrumental aid, and in not a few cases still-born or very weak babies being born—some women being liable to life-long illness and misery.

12. Early maternity is the cause of the vast mortality among mothers and babies: it also breeds a younger generation, which starts life very much handicapped and fights its battles very feebly. Result is some die within 10 years and others are physically too poor to stand on a par with people of other nationalities. They are also intellectually deficient, as they cannot concentrate and work out their duties. They get tired out very soon.

13. Among the higher classes especially the educated class there is a tendency to postpone the marriageable age. I can't say if, the amendment had anything to do with it. I think not.

14. Women at the present time, do favour late marriages—but I believe in many cases owing to poverty and other circumstances they fall victims to the custom and marry their girls as soon as they can get suitable husbands.

15. It would not be easy to estimate definitely the age of girls except through highly scientific tests such as X-rays. I would put the registration of births on a more sound basis and the registrar to issue certificates of births at the time; which should be preserved by the parents and liable to be produced for legal purposes. Every marriage should be solemnized subject to the certificates under original seal being produced on demand. I do not know if these rigid rules would be construed as putting restrictions on the liberties of the people—but think, in a people, where education has so little advanced dogmatic rules are more effective and better appreciated in the long run.

16. Raising Age of Consent to 14 years would not mitigate the difficulty in determining the age.

17. I would not separate extra-marital and marital offences.

18. Does not arise.

20. I would fix a minimum age for marriage and the same age for consent, I think the public would like this.

21. I would rely both on law and progress of social reforms by education and propaganda.

Reply to the questionnaire, dated the 13th August 1938, by KAULAGI YADUNATHACHARIAR, Esq., Triplicane, Madras.

I am of opinion that penal law is altogether unnecessary to secure the end in view. Society has been automatically adapting itself to changed conditions. Hence the object in view can better be attained by means of education and social propaganda only.

**Written Statement, dated the 13th August 1928, of Khan Bahadur
H. S. A. M. MANJU MEAH Saheb Bahadur, Honorary Magistrate, Cuddapah.**

1. So far as I am aware, there is no dissatisfaction with the state of the law as to the Age of Consent as contained in sections 375 and 376 of the Indian Penal Code.

2. The Age of Consent as it exists is 14 for strangers and 13 for husbands. This is in my opinion quite sufficient and any advance more, I am afraid, will lead to secret assaults on girls. A girl of 13 in India will be as much developed sexually as a girl of 17 or 18 in Europe. In hot countries like India, sex-unfoldment begins earlier than in cold countries. It would be a mistake, I think, to raise the marriageable age of girls to 14.

3. Cases of rape and seduction are not frequent in my part of the country.

4. The amendment of 1925 raising the Age of Consent to 13 in marital cases has not worked any miracles. The difficulty with marital cases is this. The case cannot see the light at all. The wife would not say it out, nor do close relatives of the girl come out and give any evidence, for, a prosecution mars marital life forever and the girl will perhaps have to be separated from the husband forever. She may, if she belongs to our community, have to marry a different husband. On account of this, marital prosecutions are very rare, and I have not seen any prosecution till now though I have lived up to age of 85 years. The protection stands there on the statute book in theory! I am afraid, if marital prosecutions are to be encouraged, the Police may make capital out of them and that is why, I think, public opinion is strong against marital prosecutions. As it is, the wife tender in years is not handed over to the husband. It is only when the parents of the girl think that she is fit, she will be sent to join her husband. I think that propaganda and education would better induce parents to postpone consummation longer than is usual at present than legislative compulsion however well designed.

5. Girls would usually attain puberty between 12 and 14 in our part of the country. This slightly differs according to the status of the girl, and, in some cases heredity. Higher class girls living luxuriously and fed on rich foods might sooner attain puberty than lower class girls in poor circumstances and compelled to live on spare diet and work hard.

6. (1) Cohabitation is not common in our part of the country before puberty and it is a thing regarded beastly and there is a strong public opinion against it. But cohabitation before puberty sometimes will take place if the girl takes long to menstruate. Some girls do not 'mature' till 18 or 19. Such girls are subjected to cohabitation which might help on the woman's function in them.

(2) Cohabitation takes place soon after puberty. I think public opinion will have to be educated a bit to postpone consummation till a reasonably long period after puberty. Very early consummation might retard and blight budding womanhood.

(3) Cohabitation is rare among our parts before the girl completes 13.

9. I am of opinion that at least one year should elapse between puberty and consummation. This I think would ensure minimum physical development for the sex function.

10. I am sure that at 13 a girl would be able to give intelligent consent to cohabitation with a due realisation of the consequences. I am afraid, consequences are matters that more grown-up girls may fail to realise in the heat of the moment.

12. While I believe that very early consummation, say, a few days after puberty, might be partly responsible for the high maternal and infantile

mortality that we see around us in our country, I can positively say that most of it is due to the woeful lack of maternity and child-welfare precautions, aids, propaganda, and succour by public bodies like Municipalities and Local Boards, etc. If proper medical aid is assured, and instructions and inspection and a kind of public watchfulness over expectant mothers exist, then I think we can control the death-rate among mothers and infants. Ignorance, quackery, poverty, and superstition and want of medical aid, inspection and instruction are more to be blamed than early consummation.

13. There is no further development of public opinion in our part of the country in favour of an extension of the Age of Consent in marital and extra-marital cases since the amendment of 1925.

14. As matters stand, owing to the lack of sufficient education and enlightenment, women do favour early consummation, but they do not generally favour very early consummation for their children.

17. I am in favour of separating marital and extra-marital offences into different offences. I would provide a simple fine of Rs. 50 for the guilty husband. Prosecution by itself, even though infructuous, is dishonourable and is quite sufficient and will serve its purpose. The husband should not be disgraced further by heavier penalties, if the law has any regard for the future happiness of the couple one of whom it picks out to punish.

18. I would also suggest a kind of secret trial, for the guilty husband, that is to say, a trial from which the general public may be excluded.

19. This question has been sufficiently answered already.

20. I would rather think legislation fixing the minimum age of marriage would be more effective than penal legislation fixing a higher Age of consent for marital cases. Better do not marry a girl till a reasonable age rather than marry her early and put her indiscreet husband to shame and ignominy for a weakness.

21. I am strongly of opinion that education and propaganda do more benefit in social matters like these, rather than penal law. Law should follow enlightenment. Law after all brings about a state of things wished for, but how well would it be if the strong wish precedes the thing wished for. Law without enlightenment would be putting the cart before the horse and would ill-fit society.

Written Statement, dated the 12th August 1928, of Mr. L. R. KRISHNASWAMY, Secretary, Bar Association, Nellore.

1. No.

2. (1) So far as clause 5 of Section 375 is concerned, our opinion is an Indian girl of 14 years is quite capable of looking after her own interests with intelligent discernment.

So far as Section 376 (A) is concerned, the present law is quite satisfactory as the parents of the girl hold the interests of the child as dear to their heart and will not yield to anything which will in any way affect the health of their own child. The parents of an Indian bridegroom have daughters of their own and are people of strong common sense. They are quite capable of taking care of the best interests of their children. The fact that this country is in the Torrid Zone is also an element which must go against the compulsory raising of the age of consummation.

(2) It would be a regular hardship if parents of children are to be dictated to in such matters. The age will be too high and not called for, as 14 will suit Indian conditions.

3. Crimes of seduction or rape are rare in our part of the country. In the circumstances, answers to the other questions herein do not arise. The

experience of some of our members in criminal courts establishes the fact that cases of seduction or rape occur generally only in cases of women more than 18 years old.

4. The amendment of 1925 is a dead letter.

5. The usual age when girls attain puberty is 12. It differs in different castes and communities. In the working-classes, puberty is after 18.

6. (1) Cohabitation before puberty is never common in our part of the country among any class or classes of people.

(2) Cohabitation after puberty is generally common only a year after the attainment thereof.

(3) Cohabitation before the girl completes 13 years is generally rare in our part of the country among all classes of people. None of these cases come to Court.

7. So far as we know, there is no consummation before puberty. There is no religious injunction to that effect, though Pandits quote some verses to the effect that consummation must take place immediately after puberty and before the second appearance of menses and that those who do not do so commit the sin of having killed a cow. That injunction is a dead letter and it is never observed even in the most orthodox families.

8. Garbhathanam ceremony is performed in our part of the country. It generally takes place with the consummation of marriage. Consummation generally takes place one year after puberty.

9. We do not consider the attainment of puberty a sufficient indication of physical maturity to justify consummation of marriage. We consider a girl's physical development enough to justify such consummation without injury to her health or that of her progeny a year after the attainment of puberty.

10. A girl in India is competent to give an intelligent consent to cohabitation with a due realisation of consequences at the age of 14.

11. We have no experience of any cases in the course of our professional experience or otherwise such as are referred to in this question.

12. Children born of a girl of 14 are not affected prejudicially in any way.

13. There has been no development of public opinion in our part of the country in favour of the extension of the Age of Consent in either marital or extra-marital cases since the amendment of the law in 1925.

14. The women in our part of the country favour consummation for their children generally at the age of about 14.

15. Generally no difficulties seem to have been experienced in determining the age of girls in connection with offences under sections 375 and 376, Indian Penal Code.

16. The answer to this question does not arise.

17. We would separate extra-marital and marital offences into different offences. Marital offences should receive admonition or at most fine only. For extra-marital offences, the present law is quite satisfactory.

18. We would make a difference in the procedure of trials for offences within and without the marital state. For offences within the marital state, we suggest investigation should always be conducted by an officer not below the rank of a Deputy Superintendent of Police and the trial conducted before a First Class Magistrate.

19. We have no suggestions to make under this head.

20. The fixing of a higher Age of Consent will not in any way be in consonance with views in our part of the country.

21. We prefer to rely, to secure the object in view, on the progress of social reform by means of education and social propaganda.

**Written Statement of Mr. A. SRINIVASA IYENGAR, B.A., B.L.,
Advocate, Egmore, Madras.**

1. In Madras Presidency the question of the raising of the Age of Consent affects the Brahmins chiefly. This question does not arise so far as the Hindu Non-Brahmins, Mohamadans and Christians are concerned, since, among them, marriage itself is generally performed after the girls pass the age of 14 excepting in some cases where people are rich or where the financial considerations intervene or where the parents of the girl want to please their own aged parents. Under these circumstances it can only be said that there is some dissatisfaction with the state of the law as to the Age of Consent as contained in Sections 375 and 376, Indian Penal Code among a section of the educated males and a considerable section of the educated females.

2. (2) In my opinion, an advance on the present law so far as the married girls are concerned, however desirable it may be, from the medical and other points of view, should be made only if the bill introduced by Mr. Sarda and fixing 13 as the minimum age for the marriage of girls is passed into law. The two questions are so much interdependent that they cannot be separately discussed. The majority of girls in Southern India attain their age between 12 and 13. If the girls under 12 and 13 years are allowed to be married and if the Age of Consent for married girls is raised to 14, it will be causing disastrous consequences to the society, and the raising of the Age of Consent will not be effective. The mere raising of the Age of Consent will be only a tinkering with the problem without going into the root of the matter. *I am for the raising of the Age of Consent to 14 in the case of married girls only if their marriageable age also is statutorily fixed at the minimum of 13.* My reason for this opinion is that, apart from the health, educational and economic grounds, the chance of girls becoming widows before they reach 13 years will be removed altogether and the heartrending spectacle of having girl widows under 13 will be a thing of the past. The Age of Consent, in the case of unmarried girls may be safely raised to 16 since it is a wholesome restriction which will be acceptable to all.

3. The crimes of seduction or rape are not frequent in my part of the country. In any event such cases outside the marital stage are not less numerous after the law was amended in 1925. This is purely psychological and it can be mended only by the improvement of character which is itself a wider problem of sociology.

4. (1) Irrespective of the amendment of 1925, raising the Age of Consent within the marital state to 13 years, the consummation of marriages has been and is usually and generally performed only after girl-wives reach 13 years. The consummation of marriages before the girl-wives reach 13, was rare even before the said amendment.

(2) Public opinion was already, before the amendment, in favour of the consummation of marriages only after the girls reach 13.

(3) The said amendment of law has not at all been effective in putting off marriage beyond 13. That is why I stated in the beginning that the marriageable age should first be fixed at 14.

5. Among the Brahmins of Southern India, girls generally attain puberty between 12 and 13. I think that the time of puberty will be the same for all Indian girls of the same station in life. If the family is poor and the girls are underfed, the age of puberty may be a little later.

6. (1) Cohabitation before puberty within the marital state is not at all to be found or heard of in my presidency. The mere idea itself is unthinkable and revolting to an ordinary Hindu mind.

(2) Cohabitation soon after puberty, i.e., within one year after puberty is not common. There are cases however when such things happen for, e.g.,

if the husband resides in a far off place and has no female relation to keep house for him.

(3) As I have already stated that our girls attain puberty between 12 and 13 such cases are rare. Such rare cases outside the marital state, come to Court and the criminals are punished.

7. The practice of the early consummation of marriage before or at puberty does not at all obtain in my part of the country nor is there any religious injunction or authority sanctioning such things. It is true that there are one or two Sanskrit verses in the marriage rituals recited on the 4th day of the Brahmin marriages and which allude to cohabitation, but they became completely obsolete long ago and are now important only as clearly indicating that, even among the Brahmans, post-puberty marriages were the rule in ancient days. The consummation now takes place among Brahmans only sometime after the girl-wives have attained puberty. The consummation itself is a ritual separately celebrated among the Brahmans sometime after the girls have attained puberty. It has nothing to do with the girls attaining puberty.

8. "Garbhadhanam" is always performed in my part of the country on the night of the day fixed for the consummation of marriages. It is always performed on what is called among the Brahmans the "nuptial marriage night", or the consummation night. Nuptial marriages among the Brahmans generally take place, one year after the girls have attained puberty though there are some cases in which they are performed a few months after puberty. But such rare cases are due to special circumstances such as there being no females in the husband's house or the husband living in a far off place, and wanting his wife to keep house for him.

9. Though a layman, I consider that the attainment of puberty is certainly not a sufficient indication of physical maturity to justify consummation of marriage. On account of climatic conditions Indian girls attain age generally between 12 and 13 unlike their sisters in the cold countries. We can clearly see that the Indian girls though they have attained puberty are not sufficiently physically developed so as to be fit for sexual intercourse. As a layman I think that a period of at least one year should elapse after puberty before the girls can be considered physically fit for sexual intercourse, without injury to their own health and that of their progeny.

10. This question is a purely psychological one. It depends upon the point whether the girl is married or not and also upon the points to which religion the girl belongs and how much educated she is. As an abstract proposition no girl can be said to be competent to give an intelligent consent to cohabitation with a due realization of consequences until she has reached 18 and known enough of the world. But under the present circumstances and taking especially the Hindu Society as it is a girl can be said to be competent to give such a consent in her 14th year.

11. To my knowledge no cohabitation before puberty has occurred. As regards cohabitation after puberty but before full physical development of a girl I have no definite experience of the evil consequences which can be mentioned.

12. In my opinion early consummation soon after puberty followed by early maternity is all responsible for high maternal and infantile mortality.

13. My views on this point are the same as on 1st, 2nd (2) questions.

14. Women in my part of the country do not favour consummation of marriage for their children before they are 13 years old.

15. I have no personal knowledge on the first part of the question. These difficulties can be minimised by the Municipalities as regards towns and especially Union Boards or the village Munsifs as regards villages being asked to keep a well organized and efficient department in the former cases and separate well bound registers with the necessary columns in the latter

cases for the entries of the date of birth of children. The difficulties will chiefly arise in villages and so the village Munsifs should be given clear and detailed instructions how to keep such registers.

16. This difficulty cannot be minimised merely by raising of the Age of Consent to 14 years or above.

17. I would certainly like to separate extra-marital and marital offences into different and distinct offences. In the case of marital offences covered by the proposed section 376-A, i.e., in the case of intercourse by husband with wife not under 13 and under 14 years of age, *I would like only fine to be imposed.* Since this is a revolutionary innovation in the customs of the Hindu Society, the punishment should not be made exemplary. We should also note that imprisonment would ruin the husband for the rest of his life and that the wife sought to be protected, would not be the better for it but on the other hand would be made more miserable.

18. I would like to make a difference in the procedure of trials for offences within and without the marital state. In the case of offences within the marital state prosecution should be ordered only after an enquiry by the District Magistrate after giving notice of the enquiry to the husband concerned and after the District Magistrate has satisfied himself that a prosecution is necessary in the interests of justice.

19. My views on the question No. 18 will, I think, be a sufficient safeguard against collusion or improper prosecution or extortion. No action on any anonymous petition or a police report should be taken excepting on the order of the District Magistrate after he has satisfied himself in the enquiry conducted as abovesaid.

20. No. Penal legislation fixing a higher Age of Consent for marital cases will not be so effective as legislature fixing the minimum age of marriage. The 2nd alternative, i.e., legislation fixing the minimum age of marriage will be more effective and will ensure the consummation of the marriage at or after 14 which is the object of the present proposal and also will be more in consonance with public opinion in my part of the country. My views on question No. 2 (2) may be recapitulated here. The complete removal of the chance of girl-wives under 13 becoming widows can be brought about only by the 2nd alternative being adopted. This is the crux of the matter which is in urgent need for bold tackling.

21. It is true that the progress of Social Reform on right lines by means of education and Social Propaganda can secure the object in view; but it will take a long time. Already, as a matter of fact, consummation of marriage among the Hindu communities among whom early marriage is the rule, generally takes place only after the girl-wives pass their 13th year. To raise the Age of Consent from 13 onwards to 14 as required by the proposal is but a short step; but all the same it is a necessary step. This can be brought about by the strengthening of the penal law. But as I have already stated in question No. 2 (2) my humble opinion is that the Penal Law should be strengthened only after due legislation is passed fixing the minimum marriageable age at 13.

Written Statement, dated the 11th August 1928, of M. R. Ry. M. SUBRAMANIA AYYAR, Avl., B.A., Honorary Physician, Government Hospital for Women and Children, Madras.

1. While it is true that men and women who have received English education have frequently expressed dissatisfaction with the present law relating to the Age of Consent, the vast majority of the people do not know and do not care about it. Those who do express dissatisfaction are of two classes. There are those who want the age raised; there are others

who object on principle to any law fixing the Age of Consent as regards wives.

2. (1) Regarding the Age of Consent for wives, I am of opinion that, if need at all be, the present law may be maintained. In my experience there is a growing feeling in Hindu Society, Brahmin and Non-Brahmin, that very early consummation is injurious; and there is a spontaneous effort to postpone the same until the parties thereto are respectively at least 20 and 14. In view of my opinion that legislative interference in this domain is neither called for nor just, I am not in favour of raising the legal age in respect of wives. I must also mention that the social endeavour to advance the age of consummation is having marked success.

(2) There are circumstances which justify the increase of Age of Consent so far as persons other than wives are concerned. They are:—

(a) The great majority of girls of less than 18 years of age are not capable of giving intelligent consent to sexual intercourse duly realising the consequences thereof. They are not ordinarily educated in any sense except that they gather such experiences as tradition hands them in the joint-family. This is not, under modern conditions, sufficient to enable them to judge fully of the consequences of extra-marital sexual life. Very considerable odium attaches to extra-marital sexual intercourse among the Hindus and it is not to be expected that a young girl can judge of the enormity of the consequences and give a considered consent. Besides there is no reason why here alone the ordinary law relating to the minimum age, which confers capacity for entering into valid contracts, should be departed from. There is no social or other necessity justifying such a departure. Majority, according to law, creates a presumption in favour of the person reaching the age of discretion. It certainly ought to be no less in these cases where interested parties may influence the judgment of the girl unduly. Extra-marital sexual intercourse being considered anti-social, there ought to be no relaxation in favour of minors so far as their capacity to consent is concerned. The need for protection is all the greater here.

(b) I apprehend that if the law should permit girls of under 18 years of age to give valid consent to sexual intercourse, it will help to maintain the prostitute class. It is well known that most unfortunate women take to prostitution after their first fall, at an age when they cannot realise the consequences of their acts. I feel that to increase the Age of Consent to 18 in such cases will certainly tend to diminish prostitution to a very appreciable extent.

(c) I am satisfied that venereal disease is on the increase in this Presidency, and one of the most important causes, is the infection of young girls who do not ordinarily appreciate the severity of the disease nor take steps to counteract the effects of infection.

3. No answer.

4. Please refer to my answer to question 2.

I do not think the enactment referred to had any influence in the matter. There has been a movement for reform of marriage customs, and for postponement of consummation particularly, for a long time owing mainly to social and financial reasons. Any noticeable progress of the movement is due to the urge of these causes rather than on account of fear of punishment for transgression of law. In fact I have known quite a large number of people who are not aware of anything about the existence of any law relating to the Age of Consent. Yet in my experience as a medical man for

over 25 years, and as a member of the orthodox Hindu Society I do not know of a single case of consummation of a girl under 13 years of age.

5. Generally menstruation occurs in Brahmin and townbred girls between the ages of 12 and 14. In others perhaps it will be one or two years later. The full physical development which really completes puberty is however not attained until a year after the first menstruation.

6. (i) I know of a case where a girl of about 14 years became pregnant without menstruating at all and was delivered of a healthy full term child. This was, however, long ago. In my experience I have not since come across any other case of cohabitation before puberty, except cases of perversion and rape, reports of which occasionally appear in the press and which are therefore not covered by this answer.

(ii) It is not quite usual although a few cases have occurred—too few to be noticed.

(iii) I am yet to know of such a case.

7. No answer.

8. In this Presidency, in some castes, e.g., the Brahmin and Vaisya communities, girls are always married before they menstruate. In such cases, the *Garbhadhan* ceremony is always performed. *Garbhadhan* implies consummation and it is only after this ceremony is performed that the couple start on their conjugal life. This ceremony is usually performed about 6 to 18 months after the first menstruation in the communities referred to *supra*.

9. The commencement of menstruation is certainly not the test of maturity. A certain amount of physical growth accompanied by the development of the sex organs must occur before a girl can be considered to have attained puberty. Menstruation itself is only an indication of the growth—a first symptom—of the individual towards the physical fitness for sexual life and this growth is, in my opinion, not generally complete till after a year has elapsed since the first menstruation. I think that a girl can ordinarily be permitted to start on her normal married life without injury to herself or her progeny about the fourteenth year, at any rate in this Presidency.

The traditional restrictions imposed on sexual life in a joint Hindu family are sufficient to prevent over indulgence. But unfortunately the Hindu joint family system is now tending to slowly break up with the result that the healthy restrictions imposed on possible over indulgence are gradually likely to vanish. It is essential that these restrictions should be somehow maintained as being the only means of inculcating a true knowledge of healthy sexual life. Violation of these restrictions results in too frequent and short spaced impregnation, dangerous to the mother and child alike. Frequent childbirths are therefore really, in my opinion, the true causes of the deterioration of the race and the remedy to this lies not in putting off the age of consummation indefinitely but in educating the people sufficiently, to realise the serious danger of too frequent child-bearing.

10. Refer answer to question 2.

11. No.

12. No. High maternal and infantile mortality is due to too frequent child-birth rather than to early maternity in the sense of girls becoming mothers about 2 years after the beginning of menstruation. The mortality is also largely due to improper and deficient food, the withholding of trained assistance during childbirth owing to ignorance and want of proper knowledge in the rearing of infants.

13. Not noticeably since 1925.

14. Women are certainly anxious to see their sons and daughters enter married life at the traditional age and as soon as circumstances in the family permit. This usually happens when the girl is about 13 or 14. The husband is always older than the wife, the disparity in most cases is between 6 and 9 years and in a very few cases about 3 years.

15—16. I have not had professionally to do with cases arising under sections 375 and 376. But I can say that it is most difficult to determine whether the girl is aged 13 or 14 precisely. Raising the Age of Consent of girls other than wives to 18 will render the law easy of application as a woman of 18 can be recognised with less difficulty.

17. So far as Age of Consent goes there ought not to be any marital offence. If however a person is proved to have attempted or to have had intercourse with his wife before her first menstruation or such specified time thereafter as the law may recognise not exceeding one year, he should be considered to have committed an unnatural offence independently of the question of consent. In rare cases it may happen that menstruation takes place at the age of ten. In such a case if the husband has carnal knowledge of his wife in her 11th year the law should not interfere. These cases would of course be very rare and I am mentioning them to illustrate my principle. If this principle is followed the law can be more easily enforced as menstruation can be more easily proved as a fact. Further if a woman begins to menstruate only in her 18th year it ought not to be permissible for her husband to cohabit with her before such menstruation. In my view no woman is fit for sexual life before menstruation and she very ordinarily is, only some months thereafter. This is why, apart from the question of consent, I make the first menstruation the point of time before which any attempt at sex-act is unnatural and punishable as such. In extra-marital offences consent is an important factor, and in its very nature the offence falls into a different category. The punishment for transgression should also be very severe.

18—19. No answer.

20. I consider all legislative interference in marital cases undignified and futile, except to protect persons against offences which are unnatural as explained in my answer to question 17 and also against cruelty coming under other sections of the Penal Code, in the few cases they are capable of proof, and even this merely as a warning to the erring members of society. The enforcement of the penal provisions can never be thoroughly successful and their place in the statute book can be justified only as an authoritative expression of the current social ideas on the questions they cover.

21. Subject to what I have said above, I should rely on social conscience and endeavour combined with the assistance of medical men and women, rather than on legislative efforts, to secure the objects in view.

Written Statement of Mr. B. P. SESA REDDY GARU, President, District Board, Kurnool.

1. Yes.

2. The evils of the devadasi system which allows the dedication of girls to a life of prostitution at a tender age will be counteracted to a great extent, if the Age of Consent is raised.

3. They are not frequent in this part of the country. The amendment of the law has not succeeded in preventing or reducing cases of rape. Not because the provisions of the law are not rigorous but because the authorities as well as the public have been apathetic in this respect.

4. No. The amendment had no effect in any of these directions, as most people are ignorant of the provisions of penal code. The only effective step is to raise the age of marriage, for, once the marriage is performed, it is difficult to watch or detect breaches of the penal law.

5. 12 to 14 years in the case of higher classes and 13 to 16 in the case of lower classes.

6. (i) Not common.

(ii) and (iii) Yes.

No cases come to court.

7. I do not know if there is any religious injunction so far as the three higher castes are concerned. But in regard to the fourth caste, there is no such injunction.

8. Yes. It is the same as consummation of marriage. It is performed soon after the attainment of puberty by the so-called higher castes, generally within a month.

9. I do not consider that the attainment of puberty is a sufficient indication of physical maturity to justify consummation of marriage. Each individual case is to be considered on its own merits. In any case, it ought not to be below 16.

10. 16 years.

11. I have come across innumerable cases.

12. I do agree that early maturity is responsible for high rate of infantile mortality and affects physical progress of the people.

13. Any extension of age in case of marital relationship is not welcomed, especially among orthodox classes. Hue and cry is raised that religion is in danger by the higher castes, in the case of advance in marital relationship.

14. Yes, especially old women.

15. Yes. The chief remedy is to raise the marriageable age. Also better care is to be taken in the maintenance of birth registers.

16. Yes.

17. Yes. The punishments suggested in Mr. Gour's bill will be sufficient.

18. The procedure suggested in Mr. Gour's bill may be adopted.

19. Nothing to add.

20. Fixing the minimum age of marriage will be more in consonance with public opinion and will be more effective also.

21. I prefer strengthening of the penal law to secure the object.

Written Statement, dated the 14th August 1928, of Mr. A. KONDAPPA, B.A., B.L., High Court Yakil, Anantapur.

1. So far as I know there is no dissatisfaction with the existing law as to the Age of Consent. In some cases girls attain age between 12 and 13. In those cases the husband is generally allowed to have intercourse with his wife. 14 years appears to be the right period below which sexual intercourse should not be allowed either by husbands or by strangers. Ordinarily the village girls specially among the ryot population and the working classes, do not attain age before 16. No immature girl is molested either by the husband or by a stranger.

2. I am for making an advance on the present law by raising the Age of Consent to 14 years even in the case of husbands. I have given my reasons above. This will give very good protection for girl-wives when they are young.

3. Crimes of seduction or rape are not frequent in this part of the country. If cases of rape come rarely to Courts it is the case of rape on a public woman.

4. The amendment of 1925 has not affected prevailing practices. It is difficult to discover the age of girls. It is undesirable to institute Police investigation into the age of matured girls. I am for educating the Public. No girl need be submitted to nuptials within a year after maturity. I am

for penalising marriage of girls under 14 years. It is ridiculous to allow a man to marry a girl of 12 or 13 and then think of punishing him for having sexual intercourse after the girl attains age.

5. Fifteen is the usual age at which girls attain puberty in this part of the country.* Among the indolent classes where women folk have not got much physical strain, girls attain age between 12 and 14.

6. (1) No cohabitation before puberty.

(2) In the case of girl-brides cohabitation is common soon after puberty; but it is uncommon among the people generally; because girls are married about a year after puberty.

(3) It is not common even among the indolent classes to celebrate the nuptials of girls before 13. No case comes to Court.

7. So far as I know there is no injunction which compels people to have a consummation before or at puberty. There may be an injunction for marriage among the Hindu die-hard sections to have it before a certain age but so far as I know no particular period is fixed with a penalty to celebrate nuptials before a certain age.

8. Yes. It coincides with consummation; it is performed after puberty and mostly some months after puberty and rarely within 16 days after puberty.

9. Among the people generally the attainment of puberty is a sufficient indication of physical maturity to justify consummation; but among the indolent classes maturity occurs at an early stage on account of physical weakness. In those cases protection may be given for a year after maturity.

10. At no age would a woman be competent to give an intelligent consent to cohabitation with a due realization of consequences. Cohabitation is the outcome of emotion where reason either for man or for woman plays a secondary part.

11. None. During my experience as a Lawyer of 15 years standing at the bar and as the Taluk Board President for some years and as a public man no case of cohabitation before puberty or injury to health on account of cohabitation came to my notice.

12. In cases of early consummation and early maternity it is possible there is maternal and infantile mortality to some extent. In such cases the children will be weak.

13. No public opinion in favour of an extension of the Age of Consent.

14. Women are indifferent.

15. No difficulty is experienced in determining the age of girls.

16. The existing difficulties in determining the age of girls will still persist even if the age is raised to 14 or above.

17. I am not for separating the offences into offences committed by husbands and offences committed by strangers.

18. Same procedure. But the present punishment under 376 is brutal. I would reduce the punishment in all cases of rape to a maximum of three years' rigorous imprisonment.

19. I have no suggestions to offer.

20. Legislation fixing the minimum age of marriage is more effective than penal legislation fixing higher age for consummation in marital cases. Restricting the marriageable age of girls is in consonance with public opinion.

21. I am for penalising marriage of girls below 14. This will secure necessary protection for girls.

Written Statement, dated the 14th August 1928, of Maulavi HAJI KAZI MOHAMED FASIHUDDIN, Government Kazi for the City of Madras.

In reply to the question of Age of Consent, I have to only answer from a religious point of view and quote the Islamic law.

Ldw: When a girl attains her puberty she is at liberty to have her marriage legitimately consummated and that the husband is entitled to enjoy the sexual happiness with her and such a couple is not punishable under any Islamic law.

When there is an acknowledged law in religion, I cannot hold any contrary opinion except supporting the same and so my presence is scarcely necessary to explain more than the law quoted above.

Written Statement, dated the 14th August 1928, of Mr. GANTI LAKSHMANAN, B.A., B.L., Advocate, Madras.

I have the honour to enclose my answers to some of the questions contained in the questionnaire sent to me. At the out-set I may say that on principle I am opposed to penal or coercive legislation to bring about social reform at the bidding of persons who hold advanced views, when there is no response in the bulk of the communities which are affected by the legislation. Both Mr. Sarda's child marriage bill and Dr. Gour's bill for raising the Age of Consent affect only the orthodox Brahmin and Vysya communities and one can confidently state that those communities are opposed to this legislation except for a small section which holds progressive or advanced views. Legislation for validating post-puberty marriages is one thing and penalising so-called child marriages is another. If legislation, however, should be resolved upon, marriages under 12 should be prohibited and that is the limit beyond which the legislature cannot go without antagonising public opinion.

As regards the Age of Consent in marital relations, the age of 13 at present fixed by the Act of 1925 may be allowed to stand for some time until public opinion is sufficiently educated for a further advance. Sixteen years is the ideal to which the Age of Consent may be advanced in the fulness of time and by slow degrees. But that should be left largely to the development of public opinion. As regards the extra-marital relations, 16 may be fixed as the Age of Consent, for the interests of public morality and the future well-being of the girl herself require that she should have attained a mature judgment before her consent could be considered sufficient. I may say that my answers are based upon my experience of the Northern Circars in the Madras Presidency. If the Committee should be of opinion that my oral evidence will be of use, I shall be glad to give it. I regret the delay in sending the reply.

Answers to Questions.

1. There is some dissatisfaction but it is confined to persons who hold advanced views on social reform.

2. (1) The Age of Consent may be retained for some time as it is, so far as marital relations are concerned. The amending Act of 1925 has not been in operation for a sufficiently long time to appreciate its results. If, however, an advance is to be made, 14, is the maximum limit.

(2) As regards extra-marital relations the age may be raised to 16.

3. No.

4. Ordinarily, consummation of marriage takes place after 13 years and some time after the girl attains puberty and this cannot be said to be the effect of the legislation of 1925.

(1) No.

5. 13. No noteworthy difference.

6. (1) No.

(2) The period ranges between 3 months to a year.

(8) No.

8. Yes, coincides with the consummation of marriage. It is performed after the attainment of puberty and the period ranges between three months to a year.

9. No. It depends upon the constitution of the girl. The period may vary from one to 3 years after attainment of puberty.

10. 15 or 16.

14. Yes.

17. I am in favour of separate punishments for marital and extra-marital offences.

20. I should certainly prefer penal legislation fixing a higher Age of Consent in marital cases than legislation fixing the minimum age for marriage. I am opposed to all penal or coercive legislation in social matters.

The former will be in consonance with public opinion in our parts.

21. The latter.

Written Statement, dated the 12th August 1928, of Mr. C. V. RANGAM CHETTI, Member, Karvetnagar Taluk Board, Member, Chittoor District Educational Council, Member, Chittoor District Board, Honorary Secretary, Hanuman Library.

Preface.

Before answering the questions in *scriptum* I have few general remarks to offer as regards the interrelation between the Age of Consent Bill and Mr. Sarda's Bill. I am strongly of opinion that the Age of Consent must be raised as proposed but I would here mention that the two Bills are essentially connected with each other and it will not be very convenient to deal with the one apart from the other. If Mr. Sarda's Bill is passed and marriages below 14 and 18 for girls and boys are prohibited then I think it is quite plain that there is no further penalization necessary to prevent a husband from having sexual intercourse with a wife, who is below 14, because such a contingency will not arise in future. Therefore so far as the relations of a husband and wife are concerned and a boy under 18 is prevented to marry a girl under 14, no further restriction is necessary to prevent him from having intercourse with his wife before she is 14.

As regards the relations between a stranger and a woman is concerned I think it is desirable to raise the age to 16 as proposed.

I believe the object of these two Bills is primarily to prevent sexual intercourse between girls and boys before they are completely developed and not simply to penalize such attempts. I would therefore view these two sections differently from the other sections of Indian Penal Code and would say that the purpose will be better served by Mr. Sarda's Bill than by amendment of these two sections which simply penalize but does not prevent. I am therefore of opinion that so far as marital relations are concerned that Mr. Sarda's Bill will be more effective in preventing the abuse than the Age of Consent Bill which is purely penal in its character. I shall demonstrate my opinion by a further illustration. Suppose that Mr. Sarda's Bill is not passed and the Age of Consent Bill alone is passed. Then there is absolutely no objection for a boy of 15 marrying a girl of 10. It so happens in some cases that girls attain puberty at 12 and a boy who is then 17 can have sexual intercourse with his wife who is only 12. It is

extremely rare that such cases come up to the notice of law and even if it does concerning the relations between the parties and the long future career before them, it is extremely undesirable that they should be brought before a Court of Law, the husband prosecuted, the wife made to speak against him and the pair who for ought we know may really love each other undergo publicly all these indignities for a fault for which they are not responsible. I therefore think if prevention is the primary object of these Bills as it ought to be I think the object will be more effectively achieved by Mr. Sarda's Bill than by the Age of Consent Bill.

As regards extra-marital relations it is no doubt desirable from all points of view to keep the age as high as possible and I completely agree with the proposed amendment.

Answers.

1. Yes. The general masses do not, of course, know these provisions but among the educated people there is a strong feeling that a girl should not be compelled to become a wife in reality even if she is 13.

2. (1) None.

(2) The objects and the necessity for the advance are too well-known to need recapitulation. In Southern India girls attain puberty very young but that is no reason why they should become mothers. The evils and consequences of child marriage both social and physical are well-known.

3-4. No.

(1) The question of exactly determining the age of a girl is so difficult that consummation of marriage even when the girl is within 13 can be effected with impunity.

(2-3) No.

The only step that I can think of is Mr. Sarda's Bill.

5. Between 12 and 15. Among Brahmans and Vysias the age is low and among other communities the age is generally high.

6. No. It is not common though there may be some stray cases.

(2-3) Yes.

None of these cases come to court.

7. No.

8. Yes. In cases of Brahmans and Vysias the ceremony is anterior to the consummation of marriage whereas among other castes it generally coincides with the consummation. Yes, it is generally performed after attaining puberty and in some cases it is so soon as the 7th day of first puberty.

9. No. Generally except few cases of abnormal development it requires at least 2 years for complete physical development.

10. 16 years.

11. I know a case of cohabitation before puberty by one with his wife in my community. Her health was injured. The girl died soon after.

12. Yes.

13. Yes, but it is not general and it is mostly confined to educated classes.

14. Yes.

17. Yes. I am of opinion that it is no offence for a husband and wife how young they may be to have sexual intercourse. The remedy lies more in prevention of marriage than in prevention of consummation. It is neither natural nor human to expect a boy and girl when they are man and wife to practice abnegation and to punish any breach of the law in such cases will as I stated above materially affect their future relations and in most cases completely put an end to their marital relations.

18. Yes. There ought to be difference in the procedure. Cases of marital offences should not be conducted in the open court and sufficient safeguards to preserve the relations between the parties should be provided.

20. No. I am sure very few offences between husband and wife will come to light. It is undoubted that the only remedy is fixing the minimum age for marriage.

21. Both.

General.

The "Garbhadhan" ceremony among Brahmans and Vysias show that post-puberty marriages were prevalent in them in ancient time.

Other communities than Brahmans and Vysias have no caste restrictions to get their girls married before puberty. But some of them are foolishly imitating the custom of Brahmans and Vysias.

The committee should know the number of persons who object these Bills. Their number is not even 2½ per cent. of the total population.

I know a number of cases of girls attaining puberty before marriages in my community as we could not get suitable husbands. Owing to caste restrictions we keep the matter secret and then hurry up with the marriage. We very often give them to donkeys. If Sarda Bill is passed we will have of plenty of time to select the suitable husbands.

The committee should know that the middle class among Brahmans and Vysias are ruined if they have two or three daughters for marriage. As they have to get them married before puberty they must give large sums of money as dowry or for the education of their sons-in-law. If Sarda's Bill is passed the dowry system will automatically go. Thousands of families will be saved from ruin. I know a gentleman committed suicide for he could not meet the demand of his son-in-law at the time of consummation.

I am agreeable to be examined orally if required by long notice owing to my constant tour in the District for Khaddar propaganda.

Written Statement, dated the 13th August 1928, of Rao Sahib R. SRINIVASAN, M.L.C., Poonamallee, Chingleput District.

1. Cannot say as the amendment of the law is not known to general public in rural and even in urban areas of Madras Province.

2. (2) Making an advance on the present law to the degree of intelligence and physical knowledge the people of the country gain.

3. No. They are seldom. Raising of Age of Consent to 14 years is not known to the general public (answer 1). By means of publication in the district gazette; village sheet and tom tom in every village and cherries in particular.

4. I refer to my answer No. 1.

(1) Postponing consummation of marriage is like placing gunpowder and fire nearby and keep a watch over them.

(2) After adopting the means I mentioned in my answer No. 3.

(3) Yes.

5. 12 to 16 years. In towns, in well-to-do families and in families and in environments where moral and religious principles are not strictly observed between 12 and 13 years. Girls studious between 14 and 15.

In rural parts that is in remote villages peasant and field labourer girls not before 16 years.

6. (1) No. It is considered in this part of the country as not fit to and not humane, even after marriage.

(2) Yes, if married, but some enlightened parents try to put it off so long as two years if possible some among non-Brahmins do not give their daughter in marriage a year or two after she attained her puberty, while some others seek a girl of age of about to reach puberty to marry to have sexual intercourse immediately after she attained puberty or a girl that has very recently attained puberty. This is to avoid the girl taking fancy to another man or fear of being interfered with.

(3) Age of years is not considered. Attainment of puberty is reckoned as fit and proper age to make use of a girl to bear fruit. I am not aware of any case coming before the court.

7. I am not aware of any religious injunction except what Brahmins say.

9. I do not consider so. Sixteen years I would put down as an age fit to bear fruit that even after the girl reached puberty.

10. I should say after 15 or 16 years. Earlier than this she would be a child.

11. Cohabitation hastens puberty. Such girls when attained puberty and those that are not physically developed, when broken down in health are not able to stand mental and physical strain. Their progenies are generally weeds. The average age of such girls is about 30 years. The average age of their progenies is if female 25 years male 35 years when well nourished.

12. Yes. Say a community like Brahmins in Southern India. Intellectually they are high, physically they are considered boneless. Their average age male 45 to 50. Female 30 to 35. Peasants and field labourer communities are low in intellect and full of bones (strong). Their average age male 65 to 70. Female 55 to 60. The undeveloped brain of the latter slightly differs from the former in weight. Even when developed the latter will live long. Early consummation of marriage accounts for the difference.

13. Refer to answer 1.

14. Yes. Generally and not before puberty in any communities in this part of the country.

15. When the amendments of sections 375 to 376, Penal Code, are known to the general public difficulties sure to arise in determining the age of girls. Among Hindus and Mohamedans proving the date of birth will be found very difficult. A few hours or even a minute before or after midnight will make all the difference. Virgins of respectable Hindu and Mohammedan communities may be subjected to examination of medical men.

16. What I would suggest is to fix the minimum age for marriage of a girl to 14 years. Any matrimonial ceremony performed prior to the age of 14 years of a girl shall not be recognized by court of law. Fixing the Age of Consent to 14 years or above. Registration of marriage shall be optional.

19. Corruption among police, petty and village officials in India being not abatable, the backward and depressed communities will fall an easy prey. I would suggest that parent or guardian of a bride to obtain a birth certificate from the Registrar of Births and Deaths, if that is not traceable and if there was a change of place of residence of the parents, to make a sworn statement witnessed by two respectable persons before an officer appointed (Registrar of Births and Deaths) and obtain a certificate.

21. I would prefer to strengthening of the penal law.

Written Statement, dated the 12th August 1928, of Mr. T. GANESAN, Secretary, Brahmana Samajam, Mayavaram.

Before answering your questionnaire, we have to say a few words as to the attitude of the Brahmana Samajam, Mayavaram, which voices forth the

feelings and sentiments of the major portion of the Brahmin community, towards any or all laws affecting the marital relationship of husband and wife as well as the position of women in society. The Shastric marriage and social laws, as is quite obvious, were framed with a view to develop the spirituality of human beings and yet not losing sight of their material and physical development, but never with a view to develop the latter at the expense of the former as the present day social reformers try to do. And hence the Brahmin Community has to protest most emphatically against an unsympathetic, may spiritually antagonistic, alien Government or even a legislature consisting of members of several castes and creeds with varying ideals of culture and civilisation and hence incapable of entering into the spirit of the Shastric injunctions, passing such laws; the more so, as such laws will not equally affect all the people of India who have varying marriage and social customs but most detrimentally affect the Brahmin Community only. Therefore it is one of the creeds of the Brahmin Samaj that the legislatures have no power and ought not, to pass any such laws and even if they do so, the Brahmins, who occupy a peculiar position, should be excluded from the operation of such laws.

The following answers to the questionnaire ought, hence, to be interpreted in the light of the above remarks and with regard to the position of the Brahmin Community particularly of Southern India.

1. It is very difficult to answer this question. For the majority of the people are not aware of the present state of law as to the Age of Consent, the reason for which is not far to seek and is given at the end of the next sentence. And among those who are aware of it, most are certainly dissatisfied with it; because a multicultural and multanimous legislature dares tamper with long established social and marriage customs unnecessarily, under the aegis of an alien Government, which it *tries* to hamper at every step with the intention of finally over-throwing it and behind the back of the people whom it pretends to represent.

2. In answering this question, we have to state before-hand (and not merely under question 17) that we hold that there is vast difference between marital and extra-marital cases. We are not at all concerned with extra-marital cases. But so far as marital cases are concerned we are emphatically of opinion that the prescription of age limit even as it stands at present should be removed from the statute book on the following three counts:— (1) The state or the legislature should not interfere in such cases. (2) Reforms, if any are needed, should be introduced by the community or the communities which feel the necessity for the same and that too in the form of social and religious conventions and not in the form of laws enacted in any house of legislature. (3) Law as to the Age of Consent as it stands at present is practically useless (refer to answer to question 4 too).

From our answer to the first part of the question it can easily be gathered that we are entirely against any advancement of even retaining the present law on the same.

3. The crimes referred to in the question are very rare in these parts.

We cannot at all discern the effect of the amendment of 1925 on the sexual morality of the people of these parts.

In our opinion, the raising of the general moral atmosphere and the provision of opportunity for the people in the form of marriage for the fulfilment of sexual desire at the proper age are the best preventives for the crimes of rape and seduction. Enactment of penal laws, raising the Age of Consent, etc., can only provide for the punishment of the criminals after the crimes have been committed. And hence we cannot suggest any measures to strengthen the hands of the law.

4. (a, etc.) Marriage customs vary. Most of the people of India have post-puberty marriages. People, like the Brahmins, who have the system of pre-puberty marriages have a separate ceremony, i.e., "Garbhadhan" when

cohabitation is permitted for the first time and after the attainment of puberty. The average age of the girls attaining puberty is about 12. And as a natural consequence cohabitation takes place only after 13. Therefore the amendment of 1925 cannot be said to have caused either postponement of marriage or marriage after the age of 13.

(c) And, as such, it has been a dead letter and hence it could not have stimulated public opinion in any way.

5. The first part of the question has been answered under question 4. The age of attaining puberty varies from 11 to 13 according to the physical development of the girl. The age varies among the different castes and communities too; it is later in the case of flesh-eaters and physical labourers and earlier in the case of people leading a sedentary life.

6. (a) Cohabitation never takes place before puberty. (b) Only very rarely soon after puberty. (c) This has been answered under question 4. Never has such a case come into court.

7. Consummation of marriage before puberty is never allowed by the Shastras.

The second question does not arise.

8. The *Garbhadhan* ceremony is invariably performed among the Brahmins. *Garbhadhan* and consummation of marriage take place simultaneously. It is invariably performed only after the girl has attained puberty; soon after puberty; in some rare cases and many months after it generally.

9. We hold that the attainment of puberty is nature's intimation that the girl is physically fit for cohabitation and bearing children except in some abnormal cases.

The second part of the question does not arise.

10. It all depends upon one's wisdom.

11. We have never come across such a case and hence can't give any details.

12. Emphatically no.

13. From the answers to questions 1, 3, and 4, it can easily be gathered that public opinion has nothing to do with these things. 'Age of Consent', 'Late marriages' and such other things are exercising the minds of only a microscopic section of the people.

14. It is the women more than the men that would never hear of late marriages and insist on Shastric marriages. Perhaps it is because they know by personal experience the effect of attaining puberty and the consequent sexual urge on the mentality of girls and hence want to void off the sin of unchastity, mental or physical, by providing them with husbands against the critical period.

15. There never has been an opportunity to experience any difficulty on that head since such criminal cases have never come into court.

16. Please refer to answer to question 2. We reiterate that the legislature should not interfere with marital relations.

17. Please refer again to the answer to question 2. There is vast difference between marital and extra-marital cases. Only, in the case of a husband, it is not offence according to our creed and hence no punishment should be provided for with regard to him.

18. In our answer to question 17, we have stated that it is not an offence in the case of a husband and hence the question of criminal procedure does not arise.

19. No suggestion is to be offered with regard to a husband offender 10 years; (?), for collusion to protect him from unjust laws is not a crime. The provision of opportunity to prosecute a husband should itself be done away with and then the question of improper prosecution will never arise.

20. We protest against both the alternatives referred to in the question or any other alternative that might still be proposed with regard to marital cases. And this protest is in entire consonance with the public opinion in our part of the country.

21. From our answers to question 12, it can easily be gathered that we are not at all for any kind of legislation interfering with the marriage customs of the people since these are not the true causes of intellectual deterioration, etc., of the people. But if the easy-chair socio-political reformers think that our marriage customs are the fundamental cause of all our evils, let them go amongst the public, convince it of the error of its ways and induce it to mend them. That would be the procedure of honest and sincere social reformers and not trying to push unnecessary, uncalled for, unjust and demoralising laws down the throat of an unwilling and unsuspecting people.

Written Statement of Lady SADASIYIER, "Moryalaya," Madras.

4. In my opinion the amendment of 1925 raising the Age of Consent within the marital state to 13 years, has not been effective in protecting married girls against cohabitation with husbands, within the prescribed age limit. The reason for this is that many people in the villages and some even in towns, are not aware of the very existence of such an act. The marriageable age of girls is being raised in this presidency. But this is due to the progress of social reform and the spread of education I would suggest that a few offenders be prosecuted and punished, so as to make the public fully aware of the act being in effective force.

5. In south India, among Brahmins girls usually attain puberty at the age of 12 or 13. Sometimes they attain puberty even earlier. Among the other castes girls attain puberty at the age of 14 or 15.

6. In my part of the country cohabitation before puberty is very rare. It is very common soon after puberty, and it sometimes takes place even before the girl completes 13 years. None of these cases come to court.

8. "Garbhadhan" ceremony in my part of the country coincides with consummation of marriage. It is performed soon after the attainment of puberty. It is the usual custom to have the marriage consummated within sixteen days after the attainment of puberty, or at least within a few weeks. There is no religious injunction regarding this. The Vedas say that if the parents of the married couple do not consummate the marriage for 3 years after the girl has attained puberty, the married couple may do so, without any reference to their elders.

9. I do not consider the attainment of puberty sufficient indication of physical maturity to justify consummation of marriage. In my opinion 3 years must elapse after the attainment of puberty, or the girl must be of 16 years of age for the marriage to be consummated without injury to her own health or that of her progeny.

10. In my opinion a girl in India would be competent to give an intelligent consent to cohabitation with a due realization of consequences after she is 15 years of age.

12. It is my considered opinion that high maternal and infantile mortality is directly due to the early consummation of marriage and consequent early maternity.

13. There has been development of public opinion in my part of the country in favour of an extension of the Age of Consent since the amendment of 1925. It is not a general feeling and is confined only to certain classes.

14. Yes.

20. In my opinion legislation fixing the minimum age of marriage would be more effective than penal legislation fixing a higher Age of Consent

within the marital state. Penal legislation fixing a higher Age of Consent for marital cases would be more in consonance with public opinion in my part of the country.

21. I would prefer to rely on the progress of social reform by means of education and social propaganda to secure the object in view. In my opinion whenever a contravention of the penal law regarding marital cases occurs, all the people being interested parties collude, to have the matter hushed up. Hence such cases do not come to court and the law is not in effective force.

**Written Statement, dated the 13th August 1928, of Subadar-Major
S. A. NANJAPPA Bahadur, M.L.C., Salem.**

1. There is no dissatisfaction with the state of law as to the Age of Consent as contained in sections 375 and 376 of Indian Penal Code except in the following cases:—(a) In the case of Brahmin communities and those who imitate the Brahmin community where persons marrying a 2nd and 3rd time marry young girls before puberty and want to consummate as quickly after puberty for more reasons than one.

2. The following circumstances justify in my opinion the making of an advance on the present law:—(a) The physical degeneracy of Hindus of India and their women in particular. (b) The appalling death rate of babies born of such unions. (c) The lack of initiative and courage born of an independent outlook on life peculiar to people born and bred under the above circumstances. (d) For the general welfare of the country.

3. Crimes and seduction and rape are not infrequent in my part of the country mostly they are left unbooked. The amendment of law made in 1925 raising the Age of Consent to 14 years has succeeded partially in preventing cases of rape outside the marital state and improper seduction of girls. The Age of Consent in my opinion must be raised to 16 years to make the law more effective.

4. The amendment of 1925 raising the Age of Consent within the marital state to 13 years has not been effective in protecting married girls against cohabitation with their husbands within the prescribed age of limit.

(1) It has not postponed the consummation of marriage.

(2) It has not effected the public opinion nor raise any fear in the heart of the culprits.

(3) It has partially succeeded in putting off the marriage beyond 13 years of age.

5. Girls attain puberty in Salem District at the age of—

	Average.
(a) Brahmin and those who don't do manual labour	12½ years
Communities representing working class	14 years
(Including those live in villages).	

6. Cohabitations before puberty is rare except in cases where husband induces puberty in the wife unintentional or otherwise.

(b) Cohabitation soon after puberty is common in nearly all communities.

(c) Cohabitation before the girl completes 13 years in marital state does not fail in any case where a girl attains puberty before 13 year.

7. There is no religious injunctions for the practice of the early consummation of marriage before or at puberty.

8. Garbhadhan ceremony is usually performed here it always coincides with the consummation of marriage it is generally performed soon after the attainment of puberty on a certain auspicious date.

9. I do not at all consider that the attainment of puberty is a sufficient indication of physical maturity to justify consummation of marriage how-

ever well-grown the girl may be. At the age of 15 (complete) one complete year after puberty consummation may be justified.

10. An intelligent consent to cohabitation can be given by an educated girl only after completing 15 years.

11. In my experience in general I have come across numerous cases of such physical wrecks even when the girls were even only 12 years old.

12. Yes, there are many cases where the health of the child and the mother is seriously affected and endangered.

13. Public opinion in my part of the country is generally in favour of the extension of Age of Consent in marital and more so in extra-marital cases since the amendment of the law in 1925.

14. Except a few uneducated and superstitious women in general do not favour early consummation of marriage.

15. Such difficulty is always experienced and it is suggested that Government and local Bodies should maintain birth registers.

16. Certificates of birth should be issued to people when they register the birth of children and this should be the best evidence. This would obviate all doubts and difficulties.

17. Extra-marital and marital offences should be held as separate offences. The punishment already prescribed for extra-marital offences be retained. The marital offences shall be primarily punishable with imprisonment.

18. The procedure of trial shall be the same except where the court is of opinion that any publicity may be excluded.

19. The present safeguards are I think enough.

20. In my opinion penal legislation fixing a higher Age of Consent for marital cases and legislation fixing the minimum age of marriage should go together. To prevent enforced widowhood called virginian.

21. What with castes and creeds tearing us under one community from the other and the pernicious propaganda of certain reactionaries. I would far prefer the strengthening of the penal law to secure the object in view rather on the progress of social reform by means of education and social propaganda.

Written Statement, dated the 13th August 1928, of Mr. R. SAMBASIVA RAO, Subordinate Judge, Kurnool.

1. In so far as the non-marital cases are concerned, the law is not sufficiently strong. In my opinion the age may be raised to 16 or even to 17, for this will make it easier to determine the age of the woman.

3. No.

It must have.

4. (1) It had its effect, by postponing consummation of marriage.

(3) It has no effect in putting off marriage beyond 13.

5. From 12 to 14.

In working classes, puberty comes at a later age.

6. (1) Not common before puberty.

(2) But in lower classes and in less advanced families in the upper classes there appears to be an eagerness to consummate marriage soon after puberty.

I do not know of any case.

7. No, there is no such religious injunction.

8. This ceremony does not obtain in this part of the country.

9. I do not consider that the attainment of puberty is sufficient indication. In my opinion 2 years in less developed girls and 1 year in better developed girls must be allowed to expire after puberty.

10. As most girls are not given while others are given but insufficient education, I do not think Indian girls realize the consequences of cohabitation till they complete 16 or 17 years of age at least.

12. I consider so.

13. There has been development in favour of extension in marital cases. The opinion is not general but is confined to some members of the advanced and educated classes.

14. In advanced communities, women are more in favour of postponing consummation for a sufficiently long period, after puberty.

15—16. Difficulties do arise in determining the age of the girls. Medical tests do not appear to be a sure guidance. If the age is increased to 15, difficulties will be minimised.

17. Yes, I am in favour of the separation. The nature and the amount of the maximum punishment for the extra-marital offences may be left as they are. As regards marital offences, the nature of the punishment must be simple imprisonment with or without fine for a period not exceeding two years. I suggest this lower punishment as the reputation of the girl will not be at stake and the offence will be more of a technical nature.

18. In my opinion, all cases of offences within the marital state should be tried as a rule in camera. In other cases, they must be tried in open court or in camera according to circumstances. As at present the former classes of cases should be non-cognizable, summons, bailable, and non-compoundable and triable by a Court of Sessions.

19. None.

20. Fixing the minimum age of marriage will be more effective, but I do not advocate it, as public opinion has not so far advanced. I am therefore rather in favour of fixing the Age of Consent at a higher age.

21. No doubt social reform by means of education and propaganda can produce better results, than mere strengthening of the penal law, but there must be the strengthening of the penal law, for it will help the former.

**Written Statement, dated the 15th August 1928, of Mr. V. R. SABHA-
PATHIAH, B.A., B.L., High Court Yakk, Advocate, Kurnool.**

1. It can't be said that there is dissatisfaction of the law. The age should not be raised any further as among all classes of Hindus the girls attain puberty between 13 and 14. On the other hand the age of the wife for consent may remain at 13.

2. It is not advisable to raise the Age of Consent so far as the wife's consent to mate with her husband.

3. Cases of seduction or rape are not frequent in Kurnool District or in the Madras Presidency. The cases are few. Stray cases may occur whether the age is raised or not, because there may be desperate people in any case.

4. Generally the consummation ceremony is done between the 13th and 14th year. In few cases the consummation is postponed as the public opinion is for it. But the marriage is not postponed for fear of attaining puberty. In cases where puberty is not expected before 13th year, the marriages are postponed as long as possible. Marriages are performed generally between 11 and 12. No compulsory legislation should be made as it affects the religious feelings and time-immemorial social customs which are observed among several castes in the Brahmins, Vaisyas and some other non-Brahmin castes among Hindus.

5. Girls generally attain puberty between 13 to 14. In some cases before the completion of 13th. In very few cases before the 12th. In still fewer cases 11th. In well-to-do classes between the 12th and 13th. In working classes

between 14th and 15th but such classes are not affected. Brahmins and Vaisyas do not come under working classes. In these classes puberty takes generally after the completion of 12th and before the completion of 14th year.

6. Before puberty cohabitation is not at all allowed in any cases, and does not take place as it is opposed to customs, Sastras and practice. In some cases soon after puberty the consummation takes place. This generally happens in cases where the man is aged; in cases where the wife is a second wife. But in other cases it is generally postponed for a few months. No case has come to my court of cohabitation, nor have I heard of any such case before the 13th year to my knowledge in the Madras Presidency.

7. Early consummation of marriage before puberty is in a way irreligious and nowhere sanctioned in sacred books. No consummation before puberty takes place, nor is approved by the society. In no case the husbands also claim the right of consummation before the wife attains puberty. Even the early consummation soon after puberty, is only recommendatory and optional. It is not compulsory. No sacred books say that it ought to be done immediately. I can't quote chapter and verse in the sacred books, the custom and practice is that it must be done only after puberty and the religious and social usages are also to the same effect. In a majority of cases it is postponed for various reasons. If the girl attains puberty under a bad star, it must be postponed for 3 months to one year according to the nature of star and the day. Brahmins and Vaisyas do observe these rules and the parents also do observe and do not infringe these rules. If the star is not objectionable then other circumstances being favourable and desirable then only consummation takes place. As a general rule it can be said that consummation takes place only some months after the puberty. In few cases it is done soon after puberty, in desirable cases, consummation in some cases may be desirable, but this must be left to the individuals' discretion. No compulsory law should be made. There is no authority for the proposition that consummation should take place before puberty at all. Similarly there is no authority compelling the cohabitation immediately after puberty. The law only allows cohabitation after puberty, but no time limit made within which the cohabitation should take place. But as I have stated, this should be left to the individual's discretion which depends upon their circumstances, the health of the girl, and the age of the man, etc. Compulsory law would work more hardship on the families rather than any good.

8. *Garbhadhanam* ceremony is observed and performed among the Brahmin classes and Vaisya classes. Even in non-Brahmin classes where pre-puberty marriage is observed. Where post-puberty marriage is allowed in certain classes, consummation takes place immediately after marriage and not before marriage. Among Kapus, Kammas, Naidus and Mudaliar classes, marriages are performed one or two years after puberty.

9. Attainment of puberty may in a majority of cases be a sufficient indication to justify consummation. In some cases the girls are fully developed by the time of puberty. In some cases the development is not found. In the latter cases the consummation will be postponed for a few months and the consummation in such cases is generally postponed. In some girls the development of the body takes place only after puberty. No hard and fast rule can be deduced in such cases. Generally the girls may be fit for consummation of marriage after puberty. The health of the girl and progeny will not suffer in any way by consummation. But the boys and girls must be given education about the marital relations so that they may not indulge frequently in the early period. The debility of the progeny is due chiefly to the unrestrained intercourse of the couple, the disease and the weakness of the man, the communication of any disease to the girl and so on. In my opinion the mere early consummation of the marriage is not the sole cause of the weakness or mortality of the progeny, but it is due to several other causes. On the other hand early consummation of marriage, is good and tones up the

girl's system if restrained, regulated and if the man and women keep up morals and observe rules laid down in Shastras and the periods mentioned in Shastras when a man should approach his wife. If these rules are observed by males and females, the progeny will be good and long-lived and the health of the girl and the man will be preserved.

10. The girls will give intelligent consent only after puberty. As the age of puberty differs in different castes and classes and families it may not be possible to fix any particular Age of Consent. 13 years may be quite sufficient in marital cases.

11. In my experience no cohabitation takes place publicly before puberty. This is condemned by the society and is not allowed. In very very rare cases there may be stray and secret cohabitation before puberty if the girl consents and this only when the girl is developed in body. But this may take place only very secretly and very rarely, without the knowledge of the parents. These are only exceptions. Cohabitation takes place only after consummation of marriage in very few cases where the body of the girls are not fully developed, physically. In some cases there will not be development unless touched by husband. I do not think that cohabitation after puberty will do injury to her health and body. If the cohabitation in the earlier periods are regulated, it may be good to both man and girl. The health of the girl will suffer only in cases of indiscriminate and frequent cohabitation in the earlier periods if the girl is not physically developed. I have not known cases of any injury caused to the girl nor have I heard of any cases, on account of cohabitation after puberty in cases of girls not fully physically developed.

12. Early consummation of marriage after puberty is not the sole cause of high infantile mortality and degeneracy of race. Early maternity also is not a direct cause of infantile mortality. The infantile mortality is due to various other causes, the debility of the girl due to excess cohabitation, want of exercise, lack of proper nourishments and any diseases either hereditary or imbibed from the husband. It is because of the people having become irreligious, losing faith in Sastras and defying the Sastras and the injunctions laid down there, and it is because the males had become degenerate and physically weak owing to modern civilization and neglect of physical exercise the progeny is weak.

Early consummation of marriage does not affect the intellectual or physical progress of the people. If regulated it will aid moral, intellectual and physical progress. Whether there is consummation or not, in classes and castes where pre-puberty marriage is observed, girls are not sent to schools about the puberty time and never after puberty, except in rare cases. Of course in advanced families, in some cases, girls are sent to schools even after puberty. But these cases are very few. Those who wish to give intellectual training after puberty can do so at home even after puberty. But in a majority of cases this is not done either because the girl does not desire further study or the parents are not for it (considering the present kind of education given to girls).

13. There is no further developments of public opinion in this part of the country in Madras Presidency in favour of the extension of the Age of Consent. The law is felt hard in some cases, but as the age fixed is tolerably proper for sexual intercourse it is not universally felt as very hard. But interference by law is resented. The public opinion is growing with regard to marriageable age. Marriages before 9 were performed formerly. But now generally marriages are performed between 10 to 12. Now a days marriages are performed among Brahmins, Vaisyas and among classes where pre-puberty marriages are compulsory, only a few months before the expectation of puberty.

14. Women are generally for early consummation of marriage in cases where the girls are fully developed. In cases whether the girl is weak, or not fully developed consummation is generally postponed for a few months, till the girl has 3 or 4 regular monthly courses. The parents fully

realise the responsibility and they are better judges. Legal interference in the matter will work hardship in many cases and undesirable in other cases. This must be left to the public opinion and conveniences and circumstances of the families.

15. Difficulties there are in determining the age of girls coming under sections 375 and 376, Indian Penal Code, one party lowering the age and the other party raising the age. Doctor's opinion cannot be definite. Birth registers are not available in many cases, and horoscopes are not drawn in several cases. The best evidence to prove age will be birth registers. That must be insisted as proof of age by the prosecution.

16. The difficulty or the margin of error in determining the age by raising it to 14 will certainly not cease. There will be the same drawbacks and defects. There will be several cases of prosecution and several good families will be dragged to criminal courts and there will be a good deal of harassment, trouble, expense. Rich families may escape punishment by bribing witnesses and police and moderate and poor families will suffer greatly. In cases where there are no birth registers, doctor's evidence may have to be relied and young girls have to be examined by the doctors whose opinion after all cannot be definite as to age. This will lead to bribing. Certainly it is not in the interests of the public welfare to raise the age. Even in cases where the birth registers are shown, the police may charge the innocent persons unless they are also bribed. The respect and reputation of the several families will be affected, besides a good deal of harassment, trouble, expense to the families.

17. Marital offences must be separated from extra-marital offences. They should not be classed together. Marital offences may be punished with fine. Imprisonment of any sort should not be fixed as imprisonment of the husband will certainly affect the future marital relations with his wife and the wife will have no respect and regard to an imprisoned husband and the husband may distrust his wife during his absence and bear a grudge against her and her parents for supporting a prosecution against him and the husband will reject his wife. The wife's position will be worse or even doomed for life, though her repentance for having deposed against her husband when she was young, and could not think of future consequences, will be too late. Extra-marital offences may come under Indian Penal Code and no special section is necessary. Indian Penal Code is quite sufficient to meet such cases.

For marital offences a fine of Rs. 100 maximum may be fixed, the object of the legislation being only prevention of such offences. A prosecution and a fine will be quite sufficient to deter the repetition of such offences and it will have a beneficent effect.

18. As against improper prosecution, the marital offences must be made cognisable only on the complaint of the wife or her legal guardian. It should not be a cognisable offence by police or private complaints of any others than the wife or her legal guardian.

As against extortion I don't think there can be any remedy. Extortion may be made punishable, but in 99 cases out of 100 there will be no proof coming against police. In a few cases the parents of the girl may threaten the husband with prosecution to coerce him to act according to their wishes and poor parents may extort money from the son-in-law. In many cases it may not be easily proveable. The only result will be the disruption of the families, dissension and ruin of many families and destruction of peace of the families.

19. In marital cases, the enquiry may be held in camera if the accused so desires and the public may be excluded. Extra-marital offences may be tried in public as it is done now.

20. Marital offences generally would not take place with the consent of or to the knowledge of the girl's or husband's parents. They might take

place only on the compulsion of the husband secretly. It is enough if the husband alone is made liable for such an offence. That itself would cause fear among the people. If the law allows, prosecution against alleged abettors also, there is the danger of a number of innocent people being complained against and charged and there would be heartburning and unjustified worry, trouble and expense to persons. The object of legislation would be sufficiently met if the husband is punished for marital offences. In extra-marital offences abettors might be charged and no need for change.

20. There is a very strong feeling against putting restrictions to the marriageable age. According to the immemorial customs and practice prevailing among Brahmins, Vaisyas and certain non-Brahmin classes marriages should be performed before puberty. They rely on Shastras and established practices and customs which have been in vogue for thousands of years. Of course, there are certain persons both male and female who received education on western lines and who are for a change in social practices and want that the post-puberty marriages should be introduced by a compulsory legislation. Such persons are few and do not really represent the opinion of the community. It may be their own individual opinion, which they themselves cannot enforce in their own houses. Such people who hold such so-called advanced views may set an example for others to follow. But there is a very large and considerable body in these communities who hold and who honestly believe that pre-puberty marriages are compulsory under Shastras and customs, that the ideal of Hindu marriage is lost by post-puberty marriage, that they should not imitate westerners, that the western ideal of marriage is more materialistic and that the western marriages have not been proved to be more beneficial to the world either materially or spiritually. They strongly hold that no sort of any legislation should be made affecting marriages. They also honestly and justly think that no handle should be given to any legislators or Government in matters affecting social and religious customs and practices and when once the handle is given to the legislators or Government, there will be no end for interfering in any matter social or religious. Some X or Y may come with a bill that all widows under 40 must be compelled to marry in the interests and welfare of humanity and another bill prohibiting persons in wasting valuable time over prayers and social practices. Again Z may bring a bill that marriages should all be registered, that marriages should be performed by exchange of rings and that non-religious rites should be performed and *mantrams* recited, as they are all meaningless, and cause waste of time, money. These are only a few instances. Where is the end or limit for legislation in such matters. There is a danger ahead which Hindus must guard against. If at all any legislation is necessary, so as not to affect the religious and social customs prevailing in certain communities, then a legislation might be made that girls should not be married (betrothed) before the completion of 9 or utmost 10, in order to prevent infant marriages. I fix it as 10, to be on the safe side because girls do not attain puberty before the completion of 11 years. This would not affect the religious side and would not affect the feelings of the public.

There is no harm in raising the age of consummation of marriage to 13 in the case of girls as it does not infringe any Shastras. Even if the age is raised to 14 it does not infringe any Shastras, though in some cases it is undesirable. Legislation if at all necessary may be to the effect prohibiting consummation of marriage before the completion of 13 years or the utmost before the completion of 14 years in the case of girls and 18 in the case of males.

21. Legislation affecting religious and social matters is highly deprecatory. There should be regular propaganda work to teach and circulate the principles laid down in Shastras and medical books, dealing with marital relations. If people begin to observe the rules laid down in the Shastras, the manhood will improve and the future race will be much better. It is because Hindus have lost faith in their Shastraic injunctions and do not observe these injunc-

tions because of inconvenience, etc., the degeneracy of race has set in. The present degeneracy is due to various and other extraneous causes also.

Further the opinions of people should be changed only by propaganda work and not by compulsory legislation on religious and social matters.

I may ask, though irrelevant for this enquiry, why nobody has brought a bill prohibiting the demand or taking a dowry by a bridegroom, which practice causes a great deal of havoc in many families, and which practice is condemned by all classes and communities and by people of orthodox views or of heterodox views.

Written Statement, dated the 15th August 1928, of Mr. T. S. ARUMUGHAM, B.A., B.L., Advocate, Cuddalore, N. T.

1. With regard to the state of the law as to the Age of Consent as contained in Sections 375 and 376 of the Indian Penal Code, I wish to state that there is really a dissatisfaction for the following reasons, namely:—

- (a) The provision proposed to be added 376-A lays down that whoever has sexual intercourse with his own wife, the wife not being under 13 years of age and being under 14 years of age, shall be punished with imprisonment of either description for a term which may extend to 2 years or with fine or with both. Even this section, in my humble view, does not much improve the position, in as much as the increase of age from 12 to 13 does not materially affect the people concerned particularly in view of the peculiar social system in our country. It might appear, that it is absurd to impose this penal provision upon husbands as it, to some extent, is inconsistent with the conception that wife becomes the better half of the husband the moment she becomes lawfully wedded to him, but the present social system warrants such legislation. Assuming that the penal provision is necessary, it matters very little whether the Age of Consent is 12 or 13 and there is after all a difference of only one year.
- (b) The other reason that I would urge by way of indicating the dissatisfaction as to the present state of law as to the Age of Consent is that this penal provision cannot postulate this state of the wife, namely where she, though under 12, owing to some exceptional environment, yields to the wishes of the husband to have cohabitation led by persuasion resulting from actual love.
- (c) The other reason I urge by way of indicating dissatisfaction at the state of law as to Age of Consent is that under the present social condition and taking into consideration the mentality of girls even at the 13th year of their age, they having been nurtured under exceptionally repulsive social system of performing marriages, the capacity of the girl to be imbued with a genuine consent consistent with the physiological principles cannot be real or genuine.

2. My answer to this question is necessarily implied in the answer to the first question, and by reason of the answer aforesaid, it is clear that in my opinion there is no justification for retaining the Age of Consent as it is and I wish to add that it is absolutely essential to make an advance on the present law for the following reasons also:—

- (a) The reason that I urge is that the limit at which the Age of Consent is now fixed favours the premature consummation by adult husbands of marriages with children (which are prevalent

among some communities particularly in Southern India), who have not reached the age of puberty.

b) This is also, in the unanimous opinion of medical authorities productive of grievous suffering and permanent injury to child-wives and of physical deterioration in the community to which they belong.

(c) By raising this Age of Consent female children are protected from premature cohabitation and from immature prostitution.

3. Crimes of seduction and rape cannot be said to be frequent in our part of the country but it must also be observed that the commission of such offences does not ordinarily see the light of day and therefore it is not so much the actual number of crimes that might see the light of day but the very inherent evil of the social system which gives rise to these offences that ought to be rooted out by legislation. The raising of the Age of Consent to 14 under the amendment of the law made in 1925 has, in my view, not in any manner succeeded in preventing or reducing cases of rape outside the marital state or the improper seduction of girls for immoral purposes for the simple reason that outside the marital state no opportunities are afforded for the commission of the said offences, and that the social system prevalent therein does not afford free scope for persons coming into contact with girls before they attain puberty and even till several months later.

By way of making the law effective I would honestly propose that the Age of Consent must be raised even still further and a penal provision must be laid down for cases of rape or improper seduction of girls below that age.

4. The amendment of 1925 raising the Age of Consent within the marital state to 13 years has not at all been effective in protecting married girls against cohabitation with husbands within the prescribed age limit, because under normal conditions, taking into consideration the climatic conditions of the country under which the average age of attainment of puberty ranges from 13 to 14, it is likely that the girls would be in a position to give an intelligent consent only one year after attaining puberty as then only their system would assume a proper shape admitting such consent, and they would have knowledge of the consequences of their own acts.

(1) The amendment cannot be effective by mere postponement of the consummation of marriage because early marriage before puberty makes the physical system of the girls, grow abnormal at times owing to prespeculation about their position in life and the consent that they are expected to give assumes a tangible shape earlier than usual, while as a matter of fact in the absence of such early marriage, the girls would develop their ways of thinking unfettered and they would be in a position to give an untainted consent with full knowledge of its consequences at least a year after attainment of puberty. I think that the mere postponement of consummation of marriage will not improve matters.

(2) I do not think that this is a matter which would in any way be improved by any amount of stimulating of public opinion, as the public opinion with regard to this is obviously based on the social and religious idiosyncrasies of the age which are absolutely in conflict with the physiological principles which alone ought to be taken into consideration for effectively protecting married girls against cohabitation with husbands within the prescribed age limit.

(3) Mere putting off marriage beyond 13 by itself will not be a sufficient safeguard to protect the girls against such cohabitation and there must be a specific provision added, that marriage ought to take place only after the lapse of at least one year after the attainment of puberty by girls, in view of the fact that the age of puberty varies with various communities in consonance with the different climatic conditions, social customs, and bringing up of the aforesaid communities.

5. The usual age at which girls attain puberty in our part of the country is between 13 and 14, more often at 14 only, at any rate after the termination of the 13th year. This, of course, differs in different communities, castes or classes of society. For example among the Kshatriyas the attainment of puberty will be not earlier than 13, under any circumstances and at any rate at the beginning of the 14th year consistently with the conditions of their family breeding and social system. In other communities, girls attain puberty earlier than in the Kshatriya communities (who form the bulk of our population) as the bringing up itself in such families renders such attainment inevitable (unlike in the Kshatriya communities where girls take their usual normal time to attain puberty and that also while their system is well developed so as to admit of an intelligent consent for celebration at least a year after such attainment).

6. (1) I can say that cohabitation before puberty is possible in view of the deplorable social system and family bringing up in some communities as a result of which the girls are said to have received grievous suffering and permanent injury. There are said to have been instances wherein, as a result of such forcible cohabitation more often at the instance of husbands as a necessary but a surmountable consequence of early marriage of girls with well aged husbands, the girls have sustained such injuries. These cases are not expected to come to a court of law under ordinary circumstances, and there is every chance of the commission of the offence of rape by husbands upon other girls as the girls might believe they are other persons to whom they are or believe themselves to be lawfully wedded. The man might know that he is not the husband of a girl but her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

(2) Even in cases where cohabitation takes place soon after puberty in consideration of the mentality of husbands who are married to infant girls, the evil consequences are equally serious.

(3) As ordinarily girls in our part of the country attain puberty only after the termination of the 13th year or at the beginning of the 14th year, there are said to have been several cases where the husbands have cohabitation with girls before they complete the 13th year when they are not expected to give any intelligent consent, but would have a properly developed system which would admit of such intelligent consent only after the termination of the 14th year at the earliest. As I have already observed these cases would not ordinarily for obvious reasons see the light of day and much less in a court of law and these evils have like cankers been eating into the very vitals of our society for ages together.

7. It is true that the early marriage of girls before puberty are believed by people to have received the sanction of religious injunctions, but there is no such injunction so far as I am aware, sanctioning consummation of marriages at puberty or soon after puberty, and even if there is it must be man made and must be rooted out in its entirety as it is directly conflicting with the physiological development of the human system of girls.

8. There is no such ceremony as Gaona performed in our part of the country, but there is purifying ceremony immediately after the attainment of puberty and another ceremony on the day of consummation.

9. Under normal circumstances untainted by any extraneous social evils or family bringing up, the attainment of puberty is a sufficient indication of physical maturity but not to the extent justifying consummation of marriage which must take place only a year at least after such attainment when the girl's system will sufficiently develop to admit of an intelligent consent for cohabitation without injury to her own health and that of her progeny.

10. Strictly speaking, taking into consideration the climatic conditions, the social evils prevalent in our country and absence of female education a

girl in India would be competent to give an intelligent consent to cohabitation only at her 16th year, but if girls have had a very good bringing up and sufficiently endowed with a good physical system they may be competent to give an intelligent consent in their 15th year. I would think that 16 is the proper age when a girl may be competent to give an intelligent consent for cohabitation with a due realization of consequences.

11. I have not come across such cases myself in my professional experience, but I know that there were at least 2 cases within my personal knowledge where there were serious grievous suffering and permanent injury to child-wives as a result of such premature cohabitation by husbands. The age of the girls affected thereby was between 12 and 13 and even nearing 14. Therefore I propose that the Age of Consent must be at least 14 if not 16.

12. I do really consider that early consummation which necessarily leads to early maternity is directly responsible for maternal and infantile mortality and thereby affects the intellectual and physical progress of the people. If there is early consummation where the system of the girl is not duly developed and maternity results from it, naturally the girl becomes incapable for further maternity which she would be otherwise capable of, and the progeny also having been the result of such early cohabitation would not be endowed with the same efficacy as would otherwise arise. It is also true that the body and intellect not only of those who have premature cohabitation but also of the progeny would be considerably affected.

13. Excepting the post-puberty marriage agitation which was raging in our parts several years ago there has not been any definite independent agitation till recently when after the announcement of the placing of the Gour's Bill and Sarda's Bill in the Legislative Assembly there has been public opinion rising in favour of raising the Age of Consent. There are also some meetings held here and there in some interested quarters protesting against these Bills on the ground that they are interfering with the religious custom of the Hindus. But the rising of public opinion is preponderantly in favour of these Bills and is consistent with the growing tendencies of the age and social awakening of the people at large protesting against orthodoxy.

14. I cannot say that women in our parts favour early consummation excepting some belonging to particular communities who have allowed themselves to be slaves to meaningless orthodox system under the cloak of religious sanction behind it. But in majority of cases women always have recourse to post-puberty marriages and due consummation in time though the time of consummation after puberty may vary with members belonging to different Hindu communities.

15. It is inevitable that under the present social conditions resulting in premature consummation or immature prostitution, it is difficult to determine the age of girls in connexion with offences punishable under sections 375 and 376 of the Indian Penal Code. The difficulties may be minimised by referring to medical opinion as to at what age in general a girl could be said to be capable of having cohabitation with intelligent consent taking all the other circumstances into consideration, by laying down a provision by way of fixing the age of girls indicating that a man could not commit rape with any woman below that age, and by fixing that minimum age when cohabitation is not possible which age could also be determined from the nature of the injuries received or from the other indications testified by medical authorities. In effect these difficulties will be removed if the Age of Consent is fixed at some time later than the time of attainment of puberty in general.

16. The difficulty in determining the age would be minimised if the Age of Consent is raised to 16 years so that there could not be any grievous suffering or permanent injury under normal conditions in that age and a provision must be made to the effect that the offence would amount to rape with or without the consent of the girl when she is under 16 years.

17. With regard to marital cases, it must be made clear that a husband cannot have illicit married intercourse with wife not under 13 and under 14 years of age as laid down in 376-A, which is now proposed to be added in the Indian Penal Code and the punishment for marital offences must of course be less harsh than for non-marital offences, and the maximum punishment for marital offences may be 2 years.

18. The procedure in marital cases must not be so rigorous as in non-marital and the marital offences must be held bailable, and the accused shall not be arrested without warrant.

19. It will be sufficient to make the marital offences non-compoundable and the Age of Consent raised to 14, with a proviso that the consent of the injured will mitigate the offence, to safeguard against collusion, and it is also necessary to take into consideration the medical evidence regarding grievous suffering or permanent injury to safeguard against improper persecution or extortion.

20. I think that there should be not only fixing the Age of Consent by way of preventing the commission of the offence aforesaid, but the legislature must also fix the minimum age of marriage, so that there might not be chances for the commission of marital offences. At present the latter is agitated against only by some vested interests and therefore the average public opinion is in favour of it, but the fixing of the Age of Consent also would strengthen the position so that both the measures might improve the social regeneration of the country.

21. I do think that, as from the experience of the past so many years, social propaganda or education have not proved to be effective for purposes of carrying out the programme of social regeneration, penal legislation might secure the object successfully in view of the fact that there is no sanction behind all this social propaganda binding upon the people and that the strengthening of penal law would minimise the number of marital offences and legislation by fixing the minimum age of marriage would render the task easier and more successful.

Written Statement, dated the 24th August 1928, of Mr. C. VEERA-RAGHAVIER, Advocate, Myslapore. .

4. The amendment of 1925 has produced the desirable result of protecting married girls. The consummation of marriage is invariably postponed. To those who, on account of culture, desire such postponements in respect of their girls, the law affords a solid excuse and support.

The public opinion is certainly stimulated by the publicity given not only to the law relating to the matter but also the desirability of such a state of things being observed. Marriage also, is, in several cases, put off on this account, beyond 13; but, when an otherwise good match is on board marriages are performed irrespective of the girl's age, hoping to postpone the consummation only.

I am of opinion that the amendment of 1925, producing the limited good, is not sufficient to protect the girl even in the marital state, physically and morally. Because 13 is not a sufficiently advanced age to begin the strain of sexual life and motherhood. I would certainly support the Age of Consent being raised to 16 in all cases.

5. In my part of the country girls attain puberty between the ages of 10 and 13. By puberty I only mean the first appearance of the menstrual flow. Between 12 and 13 seems to be the large average; it does not differ according to caste or communities; but, among the well-fed and easy going classes, it appears earlier; and, among the ill-fed and hard working class it appears later.

6. (1) Cohabitation is not common before puberty. There may be individual cases where widowers re-marry and foolishly desire to begin the marriage life with the child-wife immediately after marriage. I will not call this cohabitation, but only molestation; but happily they are stray cases.

(2) The larger number come under this class. "Soon after the first menstrual flow" is the auspicious time for consummation. If it is fixed to come off on the 4th day of the flow, which is the day on which the girl is bathed and purified, it is not necessary to find out even if the day is otherwise auspicious or not. In fact if the consummation is delayed for any long interval after the first flow, it is a bad reflection on the girl's family and on the girl herself. As soon after the first flow as possible, should be the time fixed for consummation. The idea in the people's mind is that the girl is ripe for sexual performance immediately the first flow appears. In the local Vernacular, a girl attaining that stage is described as "The girl is cooked". In fact, this natural phase is commonly described in that fashion.

(3) It requires no separate answer as it has been answered in 1 and 2.

I am not personally aware of such cases having come to court. There is always an anxiety in the Indian mind to avoid publicity in this matter; and, further, the law being only recent, there has not been sufficient interval for the public to take advantage of this provision, and also, the law exercises the desirable check on early consummations, as a preventive.

7. I do not attribute the practice to religious injunction. The religious portion of the marriage contemplates consummation only after full maturity. The section favouring early marriage put it on the principle of sacrament, and hold that the 'marriage' should be made before the girl attains the age of 12 years. Anyone finding out the meaning of the *mantrams* and the significance of the rituals of the marriage, should at once concede that they can only imply that the girl is matured; that being so, it cannot be argued that religion lays down that a girl should be married before a certain age. The whole function has an economic basis. The girls should be married off. They must get the best suitable boys. There is a scramble for boys; and in the competition, the evil results; and the best boy is to be secured for the girl, irrespective of the age; as, if let off, the boy would be secured by somebody else. The result is, that boy's parents put a false value on the sons, graded according to educational, wealth, and other marketable qualifications. The girl's parent is bewildered in the hard bargain, and cannot wait and see the boys slipping away but must forthwith secure one. The view to look for alliance inter-caste or sub-caste, add to the difficulties of choice; and, the circle of selection being narrowed, and, it being incumbent that the girl should be married, the earlier the safer, seems to be the golden rule worthy of adoption by parents of girls. Apart from religion, the custom which almost amounts to sanction, is that the girls should be married before puberty; and there is not even such sanction regarding consummation which may come off at any time, subject only to the social feeling against long postponement.

8. The Garbhadhan ceremony is performed at the time of consummation. And the consummation is generally after attainment of puberty; and whenever it takes place the ceremony is performed. The ceremony is only one attending the consummation ritual, so that, whenever consummation takes place according to my observations above, this ceremony is performed. It has no special or separate significance or indicative value.

9. I do not consider that the attainment of puberty in the sense in which it is used, is an indication at all of physical maturity. This stage shows itself without there being other marks of physical development. A girl continues to grow and she reaches physical perfection some years after the appearance of the menstrual flow. A girl's physical development may be considered perfected for the purpose not before she is 16; it may be 4 years or 5 years after she attains puberty. It is only then she can lead a healthy life and produce good progeny.

10. I think a girl would be competent to give an intelligent consent realising all consequences only when she is 18.

11. Such early cohabitation does result in injury to health, individual cases there may be that have escaped the toll. But those are only exceptions that prove the rule. Invariably, a healthy girl, bright of eye, and cheery and active, after consummation, becomes languid and drooping and inert and morbid. If child-birth is also added, the misery is unspeakable; wasting diseases are added to the general loss of health. One has to look at the number of girls that are said to be possessed, to be assured of the fact that they are only nervous wrecks, the result of the shock of sexual strain. A large percentage fall under this class, and I consider it needless to mention individuals. Their number is so large, that you can't single out cases; they come across anybody's way. It is unnecessary to dwell upon the kind of progeny resulting from such consummation. The mortality report of children reveals the tale of woe. In a group of children, it is hard to pick up a sufficient number, who are chubby, bright, attractive, grown up or good looking, with straight bones and clear eyes and nostrils—this, while they are supposed to be healthy. A whiff of wind, and they droop off, having no stamina. What does this indicate except that they are the product of unripe plants forced to yield before time?

12. I do consider the intellectual and physical progress of the people is vitally bound up with this topic; an immature product is immature always; and mental solidity and physical ineptitude are characteristic of a race so produced. Controversy apart, it cannot be gainsaid that this race is wanting in vigour and several virile qualities necessary for sustained work and progress; and we also die early and, are easily prone to diseases. Thought and action are generally at a stand still. I attribute all this, primarily, to the way of the origin of the race.

13. The public opinion is divided on this question as on all other questions. The thinking class are in favour of the extension both in marital and extra-marital cases.

14. Women are in favour of postponement of consummation; but, they apprehend that social opinion may be against the same. It is a case where each wants a thing to be done, but, where each thinks she may be badly thought about and therefore is averse to or chary of expressing opinion in public.

15. I am not aware of particular instances; but, I concede that it is not possible to correctly find out the age medically or otherwise; obvious remedy is to raise the age so as to make the margin of error impossible.

16. The margin of the error will certainly be reduced if the Age of Consent is raised to 18 years or at least 16.

18. I would make no difference in procedure of trials. The husband should not be allowed to take shelter under his vested rights inviolating the personal rights of the girl when once such rights are recognised and made enforceable in law. In my view the husband who so arrogates to himself such rights is guilty of a greater turpitude than the other offender in the extra-marital case who is not standing in any relationship to his victim and is under no special obligation to protect her rights.

19. Therefore I would make no difference either in procedure or in punishment between marital and extra-marital offences. Law renders an offence punishable, not merely as a vindictive measure against the offender but it is calculated to be a deterrent upon the public against committing similar offences. Remembering also that the proposed legislation is a recent one it becomes all the more necessary that these offences should not have any special procedure either by way of private or in camera trials or a tendency towards leniency in the matter of punishment, because the husband in the marital case happens to be the offender. When the law allots a right to a girl that her person should not be violated below a stated age on grounds of her personal physical health and on the public ground of the betterment of race. I fail to see how such rights is any the less than the

right of the girl in the other case. Further this piece of legislation in regard to the marital cases should be held out as one of equal degradation with the other; it would lose its educative value and the purpose of producing a deterrent effect upon the public. The law must make it clear that for each purpose a girl is a girl below the stated age, be she violated by whomsoever. It may be left to the discretion of the judges dealing out the sentence in such cases to measure the degree of punishment according to nature of the offence. I would only impose one restriction in the matter of procedure and that is I would make these offences (both) triable only by a court of sessions and by no court inferior to it. In my view, this will be a sufficient safeguard in the matter of meting out the just degree of punishment with the respective class of offences.

20. I do not think that any safeguards beyond those existing at present against collusion or improper prosecution or extortion necessary. The existing law relating to abetment, suppression of crime, false complaint, and extortion are sufficient safeguards, if properly worked. Any further measure could only make the procedure cumbrous, besides being unnecessary. Always, the persons primarily concerned with the offence, excepting the husband, are the fathers of the husband and the wife. In the commission of all such offences if the parents act against the law, they are persons equally interested also in evading the just punishment of the law. The girl's father will, in the existing state of things, frantically shield the husband, as, according to his belief, marriage, to his girl, is a sacrament, and, even if his daughter is raped by the husband, Dharma and Sanctity cry against his betraying the said husband. He will naturally collude with the offender and suppress the offence and also go to the extent of concocting evidence as to the age of his daughter being higher than the real age. I am not saying anything hard against the Hindu father, but, situated as he is, he will honestly believe that in the said circumstances his Dharma points out that way. In saying that the existing law is quite enough to deal with the situation against suppression of and collusion with the offences, I am not unaware of the difficulties in the way; but the provisions are elastic enough, when worked out properly.

21. I certainly hold that a legislation fixing the minimum age of marriageTM will be the *panacea* of the evil. That would cut the offence at the root and will very much simplify matters by removing the need for a complex legislation dealing with rape inside and outside marital conditions. One legislation, "no girl who is not of the age of 16 shall be married", will, of course, be more effective, as no condition will then exist, for considering rape in marital cases. By prescribing minimum age for the marriage of girls and by fixing the minimum as the age at which a girl reaches physical perfection, the age of consummation is automatically postponed to the age of physical perfection. It is only when the *child-wife* is in the marital stage, protection against the husband's molestation becomes necessary. When no girl will be married who is below 16, this state of things does not arise at all. Therefore to prescribe a minimum age for marriage will be the most effective legislation, provided that minimum age is fixed at 16. But if any less age is fixed for marriage even then there should be protection against consummation until the girl attains the proper age. But I find the proposed legislation deals with only 14 years. The fixing of a minimum age of marriage is being opposed by a section of the public who 'allege' that a Hindu girl should be married below a certain age and to legislate that marriage should not come off until the minimum age fixed by law, is opposed to the Sastras and the 'Sanatana Dhárma'. They are only a small section who have not progressed with the march of times and considered the question on hygienic and eugenic grounds. I do not believe they represent the real public opinion. Besides, I do not think that such a view is correct, or, any contrary measure is opposed to sastras. As I have stated, verses said during a Hindu marriage imply that the bride is fit for sexual intercourse on the same night. In fact, the Garbhadhan ceremony is performed on the 4th day of the marriage in what is known as the Seshahomam. I do not

believe that our Rishis intended that such intercourse should take place whatever is the age of the girl, seeing that girls are married even when 8 years old. Our Rishis knew better; the only inference is, our Rishis intended only one marriage with no separate consummation; and they also intended wedding to take place only when the girl is physically ripe for consummation. In course of time, this aspect was lost sight of, and when on account of economic conditions, early marriage came into vogue, consummation became a subsequent affair. Therefore religion does not prescribe that marriage should take place before puberty, and fixes no minimum age after puberty. Suitably to the present conditions and the physical and moral welfare of our girls and the direct good of the future progeny of our race, if a minimum age of marriage is fixed by law and enforced by legal sanction, all, indeed, fares the land, where you find a section of men who cry themselves hoarse against the introduction of such a statutory measure.

22. I rely only upon the penal law to secure the object in view; recognising, as I do, the immense benefit of this measure, and the crying need for it, I am of opinion that that measure should be introduced speedily and spread rapidly. In a country where its people are steeped in ignorance and about 95 per cent. of its population are illiterate, the march of social reform and the spread of education is bound to be a very slow movement, indeed. It would take some generations before education can penetrate the masses and for the work of social propaganda to have any effect upon them. Even in a country more fortunately circumstanced, reform, by propaganda work alone, has always been a slow measure. The masses has got to be lead by the thinking few only; and, where a measure is, without question, a beneficial one to the people of the country, it is by legislation alone that you can attain the benefit available from it, as you want to attain it speedily and effectively.

Written Statement, dated the 20th August 1928, of Maulvi G. J. QURAISHI, B.A., B.L., Judge, Small Cause Court, Madras.

1. Yes.

(1) For, the seduction to, illicit intercourse of a girl in particular of an unmarried girl between 14 and 16 years of age while living under lawful guardianship is not penalised, even though it is at once wicked and obviously injurious in a high degree to the common interests of society and involves moral guilt of a specially deep and degrading kind.

(2) In not a few cases do the girls attain to puberty on the completion of their 15th year.

2. (2) The abovementioned reasons and the one presently to be mentioned justify the making of an advance on the present law. Under kidnapping sections of the Penal Code, the kidnapping of a girl under 16 years of age from lawful guardianship with intent or knowledge that she will be forced or seduced to illicit intercourse is punishable. But whilst living under the roof of her lawful guardian she is ravished, the offender suffers no punishment. Such immunity would allow wickedness of a depraved nature to triumph and leave the evil-doer in a peaceful enjoyment of the fruits of his crime. Indeed this will constitute a public insult to justice and morals.

3. Not frequent. The cases of rape under twelve years of age are negligible in number. Generally, rape is committed upon girls between fourteen and sixteen years of age after they have reached the age of puberty and are under the age of "waiting". Between the age of 12 and 14 rape may not possibly be committed even though the girls had arrived at the age of puberty for the reason that for a reasonable period after puberty, say a year or two, which may be considered to be a period of 'probation', a strict vigilance is exercised and kept over marriageable girls by their parents or guardians which is often relaxed after the said period under the general belief that girls who have over-stopped that period have become

more discreet and courageous and may themselves be trusted to protect their own chastity.

In my opinion, the raising of the Age of Consent to 16 would be an effective remedy.

4. (1-3) I do not think.

Marriageable age is varying in different communities and depends upon several factors such as financial capacity, agedness or health of the parents, the existence of a proper male guardian and the availability of a suitable bridegroom. Among the non-twice-born castes, Moslems and Indian Christians, post-puberty marriages are the rule. So far as I am aware, it is only after a girl has attained to puberty that the parents or guardians think of her marriage. After puberty, some appreciable time very often elapses before marriage is solemnized. But, if the marriage has taken place before a girl reaches thirteen, the consummation generally takes place soon after puberty, the longer period being an interval of a few months—and is not postponed until after she completes her 13th year.

In a few cases, the parents of a girl being despaired of life owing to ill-health or other causes or such of them who are poor or of mediocre means may hasten the marriage even though the girl has not completed her 13th year, the more so, when a suitable husband of decent means be available.

I am led to think, therefore, because of the possibility of such marriages, that the amendment of 1925 raising the Age of Consent within the marital state to 13 years has not been effective in postponing the consummation of marriage, stimulating public opinion, and putting off marriage beyond 13. I believe this may be particularly due to the ignorance of the amended law by the general public or their belief of its unsuitability in the circumstances that supervened such marriages.

So far as regards marriages, the Hindus and the Muslims are governed by their respective personal laws. If marriages of girls below 14 are sanctioned by their respective personal laws, any legislative measures prohibiting marriages under 14 will constitute an infraction from the rights given to them by their personal laws. I do not believe therefore that it is within the domain of the legislature to make such an inroad or encroachment upon their personal laws. Furthermore, it is not right to assume that a Penal Code which aims at punishing an act of commission or omission tending to the prejudice of the community as a whole should be considered as a body of ethics or social code so as to include within its ambit such acts of commissions or omissions which may in the opinion of persons of progressive ideas, be considered to be social wrongs. The remedy should be left in the hands of the people themselves who, as the progressive ideas develop, may be in a position to avoid them as and when their circumstances admit of such an avoidance.

The raising of the Age of Consent within the marital state to 14 cannot in my opinion, constitute a *panacea* for the evils contemplated to be remedied. The question of what is the best age of fitness for sexual intercourse is one of great difficulty and about which people may differ. That being so, the raising of the Age of Consent to 14 will not be an effective solvent or ensure deterrent effects. As the law of rape at present stands, it does not apply as between husband and wife after the age of 13 years. Even so, it by no means follows that because the law of rape does not apply as between husband and wife if the wife has attained the age of 13 years, that the law regards a wife over 13 years of age as a thing made over to be the absolute property of her husband or as a person outside the protection of the Criminal Law. That of course cannot be supposed. Under no system of law, whether Hindus or Muhammadans or that framed under British rule, has it ever been the law that a husband has the absolute right to enjoy the person of his wife without regard to the question of safety to her if the circumstances be such that it is probably dangerous to her life. The law should exceedingly be jealous of any interference in matters marital and very unwilling to trespass inside the chamber where the husband and wife

live together and should never do so except in case of absolute necessity. And this substantially for the reasons as I have already said, that the Criminal Law is applicable between husband and wife, whenever the facts are such as to bring the case within the terms of the Penal Code, more especially so when the act of intercourse has endangered her health. Such being the view I take, I am humbly of opinion that to forbid consummation of marriage with a girl who has not actually completed her fourteenth year is neither necessary nor desirable, nor does it seem to lie within the range of practical politics. I do not think it necessary therefore to introduce the proposed amendment into Section 376 or to enact the proposed Section 376A.

5. The usual age of puberty in my part of the country seems to be between 11 and 15.^a It is varying in different classes of society. In communities who are engaged in manual labour or lead a luxurious life, girls arrive at the age of puberty earlier, say 11 or 12. Perhaps the girls who are resident near the Cape of Comerin attain to puberty before they reach their age of teens and this owing to the tropical conditions.

6. (1) I do not think so.

(2) Yes; if the girls have already been given away in marriage.

(3) Yes, in some cases, if a girl has attained to puberty before 13 and is plump and well-developed and able to bear the embraces of a man without apprehension of danger to her health.

Very very rarely cases of all the three have come to Court.

7. The practice of the early consummation of marriage, that is to say, between the 4th and 16th day after puberty obtains among very orthodox members of twice-born classes if they can afford to bear the expenses of nuptials, because of their belief in a shastric injunction to that effect.

8. 'Garbhadhan' ceremony is usually performed in my part of the country among the twice-born classes. It coincides with the consummation of marriage and is generally performed after the attainment of puberty and in a few cases between the 4th and 16th day and usually some 3, 4 or 6 months after it.

• 9. In generality of cases, my view is that the attainment of puberty is a sufficient indication of physical maturity for the purpose of marriage. The latter part of the question does not call for an answer in view of my foregoing opinion. It is not easy to fix any time after puberty, which may be considered to be enough to justify consummation without injury. This depends upon several factors, viz., constitution, mode of life, etc.

10. This may be fixed at 14. In my opinion, a girl of 14 may be competent to give an intelligent consent to cohabitation with a due realization of consequences. Generally it may be taken as the age of desire.

11. No.

12. As there is no reliable statistics, I am not in a position to answer this question. My view is that early consummation and early maternity shorten the period of instruction and discipline, for, a woman after it may not be disposed to prosecute her studies. I do not think that the intellectual or physical progress of the people can vitally be affected by such causes. Girl mothers have produced in some cases which have come under my observation stalwart children both in physique and intellect.

13. I do not think.

14. I cannot answer.

15. Possibly in a few cases.

I do not think such cases of difficulty admit of any hard and fast rules. Each case of the kind will depend upon the nature of the available evidence as to age. If no reliable evidence of age be available, the evidence of a medical practitioner shall be taken in conjunction with the other evidence that has been adduced.

16. I do not think.

17. No. The existing maximum will do.
 18. No.
 19. I cannot conceive of any.
 * 20. Both the alternatives are undesirable and unnecessary in my opinion for the reasons I have already advanced.
 21. I would prefer to rely on the progress of social reform by means of education and social propaganda.

Written Statement, dated the 28th August 1928, of Rao Bahadur M. C. RAJAH, M.L.A., F.M.U., Honorary Presidency Magistrate, Member, Public Accounts and Railways Finance Committees, St. Thomas Mount, Madras.

2. Enlightened public opinion should be created to justify making an advance on the present law. This is very essential. The other circumstances are—

- (1) the growth of education among a large number of ladies and women, and
- (2) regard for women as possessing personality.

4. Whether this law has had anything to do, I cannot say. But, it is largely due to the spread of education, that the age of marriage is rising among classes given to early marriage and also the age of consummation, is certain.

5. The usual age is 13.

9. I do not consider the attainment of puberty as a sufficient indication of physical maturity to justify consummation of marriage. The weaker the girl is the earlier is the puberty. The proper age to justify consummation of marriage would be 16.

10. At the age of 18.

13. Yes. I think it is general.

14. No.

17. Yes.

18. Yes. Within the marital state, I would prefer the trial in camera.

20. I do not think so.

21. Certainly, I would prefer to rely on the latter.

I would suggest caste or communal Panchayats be created and empowered to deal with offences within the marital state, and organise social opinion in favour of reform by means of these Panchayats.

Written Statement, dated the 26th August 1928, of Mr. C. SAMBASIVA RAU, B.A., Bar-at-Law, Mylapore, Madras.

1. There is dissatisfaction with the law as contained in Sections 375 and 376 of the Indian Penal Code. If the legislature is supposed to reflect the opinion of the people, especially of the educated classes, I think that the law contained in Sections 375 and 376 of the Indian Penal Code, is not abreast of such opinion.

2. I think that an advance must be made on the present law for the following reasons:—

- (a) Considerations of health—what with the growing tendency to migrate to cities, what with the lack of fresh air, proper exer-

cise and healthy food, and what with the economic stress the modern girl is not quite as strong physically as the girl of the same age 20 years ago. Maternity must, therefore, be postponed till the modern girl builds up her body sufficiently strong to bear the strain of motherhood.

- (b) **Economic considerations**—the girl is launched into married life and consequently into motherhood before she receives sufficient training at a school or a college which enables her either to supplement the income of her husband by her own earnings or be a helpmate to her husband in his career. I think the time has come when women must be helpmates to their husbands, both in the interests of the family and of the nation.

3. Crimes of seduction or rape are not frequent in this part of the country.

4. I think that the amendment of 1925 raising the Age of Consent within the marital state has been effective by firstly stimulating public opinion and thereby postponing marriage and consummation thereof beyond 13. Whereas motherhood was common till a few years back at the age of 12 and 13, motherhood is rare at the present day before a girl is 14 and generally even before 15.

I think that the Age of Consent should be raised to 16. I think that public opinion will readily respond to such an advance. Though to satisfy certain superstitions, especially amongst Brahmins, the lowest age for marriage for a girl might be fixed at 14 as in Mr. Sarda's Bill, the age for consummation must be fixed at 16. Though there is a general consensus of opinion in favour of such a reform, I am not unmindful of people who are too weak to express it, partly on account of social environment and partly on account of some supposed ordinances of the Sastras to the contrary, which they never cared to investigate. If the legislature comes to the aid of such waverers, I think they will readily respond to and bring their views into line with the objects of the legislature. In this connection, I am not taking note of people who raise an opposition to every reform and every movement merely for the purpose of raising dust.

5. In the richer and middle classes, girls generally attain puberty between 13 and 14; more generally at 14. Amongst working classes girls attain puberty later, say between 15 and 16.

6. (1) Cohabitation before puberty is so uncommon that one might say that it never happens.

(2) Cohabitation, soon after puberty, is now becoming uncommon.

(3) Cohabitation before a girl completes 13 years is also very uncommon.

7. I do not think that early consummation of marriage ever takes place on account of any belief in any religious injunction. I think it is mostly due to thoughtlessness of the parents and in some cases to the thoughtless importunity of a husband.

My knowledge of Sastras is limited. I am not, however, aware of nor I have heard of any injunction of any Shastra which ordains consummation at or before any particular age though in the case of the ceremony of marriage, it is alleged that some Puranas and Cavyas enjoin marriage before a certain age, especially before puberty.

8. Garbhadan ceremony is performed in this part of the country and it coincides with the consummation of marriage. It is most generally performed after attainment of puberty, though according to my view much too soon after puberty.

9. I am emphatically of opinion that mere attainment of puberty is not an indication of physical maturity. I think that consummation should be postponed in the majority of cases to 2 to 3 years after puberty.

10. I think that a girl brought up in any decent household would not be able to realise the full implications of marriage before she is 16.

11. I have come across many instances in my own family and in other families where girls die young on account of early consummation of marriage.

A girl is married at 10; puberty in the 11th year; daughter born in 12th year; son born in 14th year; mother died of hæmorrhage of womb on the 10th day after the birth of the son. The daughter is alive but a weakling; the son is normal.

Another girl married at 12; puberty at 13; consummation immediately; child birth at 14; second pregnancy in the 16th year; a child born after great pain died immediately; mother died in a week though the 1st boy lived for five years a weakling and died.

12. I consider that the prime cause of high maternal infantile mortality is early consummation of marriage, though in the case of infantile mortality ignorance of hygienic and sanitary principles enhances it. The children of such unions are generally weaklings, both physically and intellectually.

13. I think there is a development of public opinion amongst the majority of educated classes in favour of raising the Age of Consent both in marital and extra-marital cases. The uneducated and working classes do not think of the subject.

14. The educated women take the progressive view, the uneducated women are indifferent. Whatever strong difference of opinion, either real or manufactured, there might be with regard to the age at which the ceremony of marriage should be performed, there is only either indifference to or active sympathy with the idea of raising the Age of Consent.

15. Though actual cases have not come before courts or to the public view, I think there will generally be a difficulty in determining the age of girls in connection with offences under Sections 375 and 376 of the Indian Penal Code. The husband being generally the offender, the parents on either side, whose evidence is most effective in obtaining a conviction do not speak out and if they are obliged to speak out, they suppress the truth and depose to a falsehood. Hindu society is so very tender about domestic relations, that there is very rarely an informer in connection with these offences. It is very difficult, if not impossible, to get evidence to sustain a conviction. The only remedy is growth of public opinion and I think it has grown sufficiently strong to prevent abuses, though not strong enough to help in getting an abuse punished. What I mean is that there will be fewer and fewer errors, but when there is an error, it is difficult to get a conviction.

16. I do not think that the difficulties would not be minimised by raising the age.

17. I think the punishment as prescribed by Section 376 of the Indian Penal Code may stand as it is. It may be left to the discretion of a judge to punish a husband more leniently than a stranger.

I am for removing the exception in Section 375 of the Indian Penal Code.

I see no need for Section 376-A. The Judge is given a wide discretion under Section 376 and he can adjust it to the changing times and growing public opinion.

18. I do not think that any difference in procedure is necessary.

19. I think that in the case of illicit married intercourse, public opinion is the best safeguard. In other cases of illicit intercourse, the police and other officers of justice might be directed to be more vigilant, though public opinion must help them.

20. I think that fixing a minimum age for marriage would be more effective than fixing a higher Age of Consent for marital cases, though I am aware that the latter will meet with very much less opposition than the former.

21. I think that the strengthening of penal law is necessary to secure the object in view. Progress of social reform and public opinion are necessary to see that the law is not violated and when violated the transgressor is punished.

Written Statement, dated 27th August 1928, of Rao Sahab B. PAPAIYYA CHETTY, Madras.

1. The very existence of the law is not in the knowledge of the people. Consummations of the marriage are invariably performed without the least reference to the law referred to.

2. I am neither for retaining the present law of Age of Consent as it is, nor for making an advance on the same lines for reasons to be expressed hereinafter.

3. The crimes of seduction are rare in my part of the country. As regards rape I am of opinion that in the technical sense of the law several consummations of marriage come under Sections 375 and 376 of the Indian Penal Code. But there have absolutely been no complaints from either side of the pair as to any immediate evil effects resulting from such consummations. This is due to the fact that each consummation is performed with the mutual consent of the parents of both the boy and the girl and hence no dissatisfaction is expressed on either side.

Referring to the amendment of the law made in 1925 raising the age limit to 14, I may say that under circumstances explained above no visible change has taken place in the societies' angle of vision.

As for the improper seduction of girls for immoral purposes I think I am not competent to express an opinion. About the measures to make the law more effective, I shall deal with in the concluding part of the statement.

4. (1) As I have already mentioned the existence of the law is not perceptible. I should therefore think that any consummation of marriage has never been postponed mainly on account of the law or its amendment. On the other hand I find that child marriages are ever on the increase which ought to give room to a corresponding increase in early consummation.

(2) There has been to an extent a stimulus to the public opinion as to the desirability of avoiding early consummations; but this in my opinion is entirely due to the social enlightenment of the people in general and to their pecuniary circumstances. I do not think that this is to any extent due to the provisions of the Indian Penal Code. Nevertheless, the stimulus has not reached beyond mere change in the outlook of certain educated classes and so has been quite ineffective as far as the social customs are concerned. It will not be out of place here to mention that it is more the mother-in-law of the girl that fixes the date of consummation than the several sections of the Indian Penal Code. So without a change in the mentality of the Indian women, no reformation is possible in social habits. I am not one of those who would depend upon legislation for sound social progress; but yet I admit that legislation made and given effect to in a manner that suits the conditions of the people should be welcomed.

(3) No marriage as far as my knowledge goes has been put off beyond the statutory age limit on account of the amendment referred to.

5. In my part of the country girls attain puberty generally between 11 and 13. There is difference in the age of attainment of puberty among different classes of people and as far as I could observe I find that among the non-vegetarian communities the age is over 13.

6. (1) Cohabitation is not allowed before puberty.

(2) It is not uncommon that consummations of marriages are performed soon after puberty.

(3) Except in families where education has had its hand, there is absolutely no reference to age in fixing the date of cohabitation. A girl is thought fit for it any time after puberty, except in cases of ill-health.

None of these cases come to court.

7. As far as I know my religion, there is no such injunction regarding the fixing of the period of consummation of marriage.

8. The word garbhadhan means giving pregnancy. But there are two kinds of garbhadhan in the South Indian Society. One is during marriage and the other during consummation of marriage. Presuming that the marriage is performed before puberty as it is most commonly done among Brahmins and Vaisyas, the garbhadhanam during the marriage is merely a nominal ceremony. There is no cohabitation and the girl and the boy have not the least intention for cohabitation at that time. The whole function never goes beyond chanting of certain manthras whose meaning is supposed to be that the marriage, the consummation of the marriage, and even the birth of the child are all completed.

This is probably a relic of the custom of the olden days when marriages invariably coincided with consummations of marriage as the then girls were married only after puberty. I think this ought to be that and no other.

The other garbhadhanam which coincides with the consummation of marriage always takes place after puberty. This is garbhadhanam proper, and therefore the real.

Real garbhadhanam is therefore after puberty; but how soon after it depends upon the habits, education and mentality of the families: the period varying from seven days to two years after puberty.

9. I do not consider that the attainment of puberty by a girl is a sufficient indication of her physical fitness for cohabitation. The desirable period between a girl's puberty and the consummation of her marriage varies according to her constitution. As consummations are commonly followed by pregnancy, it is highly desirable that the period should be prolonged until such time the girl can stand the strain of delivering a child. In any case a year after puberty or an age of full 14 years for the girl whichever is longer should be prescribed.

10. I think that a girl in India is at no age competent to give an intelligent consent to cohabitation. I am of course speaking of the average girl.

The question refers to the mental development of the girl, which is impossible under the present system of education imparted to them. If due regard is paid to their education I should think that an age of at least 16 years is necessary for them to enable them to think for themselves. But, as this would be attempting to create almost a revolution in the social customs, I think for the present that an age of 14 may be deemed as suitable.

11. I have not come across cases in which cohabitation has taken place before puberty. But in more cases than not cohabitation is allowed before the attainment of full physical development. Though one does not see immediate bad results from such early consummations of marriages it is a matter of common knowledge that child mothers put an early end to their lives and children are left weak and unhealthy. Cases are not uncommon in which girls bring forth six or seven children before they attain their 18th year and consequently become prey to some wasting disease.

12. Certainly I do. Apart from maternal and infantile mortality, there are other serious results from these early consummations.

At a time when the girl's mental faculties just begin to develop and at a time when she, having just learnt to read and write a few short sentences, begins to use her literacy to learn something really useful, the consummation of marriage comes in and puts an end to the progress of her intellectual development. She is snatched away from her school mistress and suddenly put into the worries and turmoils of family life even before she is fit to bear the strain thereof both physical and mental. Except for a few months of ecstasy of love and conjugal relations with her husband, for the rest of her life which is in many cases short she is thrown into misery.

Her intellectual attainments she finds inadequate to give her relief either by diverting her attentions to reading or thinking, or by enabling her to devise means to meet the several difficult situations that may arise during the course of her life.

13. I find there is a certain amount of awakening in the people regarding the evil results of early consummations. But I do not think it has any relation to the amendment of the law of 1925. It is the outcome of the growth of education. This view is corroborated by the fact that the awakening is seen only among the educated classes. I have at the same time to admit that nothing has come out of this in a practical form.

14. As I have already observed, mothers-in-law of girls favour early consummations of marriage for their children as they are fond of getting daughters-in-law soon into their houses. They are eager to enjoy as early as possible the pleasure of caressing their grand-children. This is again due to want of proper female education. This is another instance in support of the view expressed in my answer to Question 10 that at no age an average Indian woman is fit to intelligently think for herself.

15. Cases of prosecution in this part of the country under the sections referred to are extremely rare.

16. I am not keen about raising the Age of Consent.

17. I am for separating marital and extra-marital offences into different offences.

Regarding the extra-marital offences, I think that the punishment ought to be severe, as it already is. These offences include seduction of girls for immoral purposes even before the girl is fit to understand the serious consequences thereof. Such an act of enticement amounts practically to an act of ruining the girl for the rest of her life. Therefore these offences deserve severe punishment.

Regarding the marital offences I think I shall have to take a different view. In the first place I am not for fixing the age of consummation of marriage. I am in favour of leaving the age of marriage itself. If the age of consummation is fixed and the transgression of that law is treated as an offence the prosecutor has to prove that cohabitation has taken place. These prosecutions bring in very serious complications causing much damage to the sanctity of family life. Presuming that after all the offence is proved, under the provisions of the existing law the husband of the girl is liable to rigorous imprisonment for two years. If it is the intention of the legislature to promote family happiness and social prosperity by the sections referred to I should submit that the very purpose is negated. Between a husband and a wife there can be no seduction with an immoral purpose and no base motive to spoil the girl, even where the law is transgressed. Though the results of early cohabitation are one and the same in both marital and extra-marital offences the intentions of the offender are entirely different. In the extra-marital offence the intention is to seduce the girl for an immoral purpose; whereas in the marital offence it is nothing more than a mere error of judgment due to ignorance or indiscretion. To put the punishment for the latter on a par with that for the former, though a difference in the period of imprisonment is allowed, is anything but desirable in the interests of society. This is something unthinkable to the Indian mind. These provisions create misery where they are expected to create happiness. Fortunately it is well that these laws are not in force with their full vigour up to now and I think that they ought to be replaced by more suitable ones.

This is probably the view of the executive Government in not applying these laws effectively. I would suggest that the punishment for the marital offences must be prescribed more from a corrective than vindictive point of view. There should therefore be no infliction of punishment which would bring in ruin to the family relations. As a corrective measure I would suggest that a fine, ranging from Rs. 25 to Rs. 1,000 per month, be levied on the offender payable until such time as the girl is legally fit for cohabitation; in default of payment the offender ought to be liable to rigorous imprisonment for the period for which the fine is levied. The amount of the fine must be judged from the pecuniary condition of the offender.

18. In the marital cases I would suggest that the trial must be by a jury and in the extra-marital cases the existing method may be continued.

19. In a marital offence I think the Police should not be allowed a free hand to prosecute. The offender may be served with a Magisterial order to show cause why he should not be prosecuted, before actual prosecution is launched.

20. I am not satisfied with the present state of law regarding this matter. Firstly for reason of its grouping both marital and extra-marital offences together and secondly for the very serious complications and family miseries that are both possible and probable under its existing provisions. I am therefore for an alteration of the law to a more suitable form. In proposing an alteration there are two questions that prop up. One is whether the Age of Consent ought to be fixed in preference to the age for marriage; and the other is about the exact age to be fixed for either.

In choosing between the two alternatives, i.e., fixing the Age of Consent and the minimum age for marriage, I am inclined to throw my weight with the latter.

Under the present law, it is the Age of Consent that is fixed. One finds that practically no complaints about the application of the law are heard. As I had already observed, the law has not been enforced in the marital cases and hence the absence of complaints. If only the slightest attempt had been made to apply the law to the South Indian consummations of marriages, I should think that it could have certainly caused the greatest provocation to the people and made the Government more unpopular than any other measure could have done.

Consummation of marriage or more definitely cohabitation between a husband and wife never takes place except when they are alone. If there is a married couple in a house and if passion rules the man, I think it is not humanly possible for the elderly members of the family to guard them against cohabitation. When two persons, a girl and a boy, are proclaimed as wife and husband by marriage, which only means that they are intended to cohabit with each other and when the girl attains her maturity and the boy becomes subject to passion, nothing can prevent their cohabitation. The parents are helpless and much more the law. I should even say that the boy and the girl are themselves helpless. If under these circumstances the act takes place either by excessive passion or by ignorance of the law, the man is liable for punishment. Of course the offence does not come to light except when the girl becomes pregnant which is in itself not uncommon. As soon as pregnancy appears, the Police get active. Proofs have to be obtained for the defence that the girl is above the age limit. The boy's career whether he comes out of the case successful or unsuccessful, is seriously handicapped. The pregnant girl who is already too tender to bear the strain of pregnancy, will have to appear in the court of law and be subject to severe examination. The boy in his anxiety to get out of the clutches of the law may even be tempted to throw the blame of adultery on the girl and this subjects the innocent girl to a social stigma. The family life of the couple is thus once for all wrecked and most probably irreparably so. Misery creeps in where the legislator wants to create happiness. The very purpose of the law is negated and the contrary happens. The sanctity of the family life is subjected to most undesirable allegations. The real Hindu spirit of marriage and the feeling of the sacred tie between the husband and the wife is broken.

So, I am strongly against fixing any age for the consummation of marriage. But the question is as to the alternative. I admit that the society is badly in need of a legislative measure to overcome the present unhealthy practice of early marriages. I would therefore suggest that the minimum age may be fixed for the marriage itself.

Supposing a minimum of 14 years for the girl is fixed for her marriage, I shall just examine the effects. Under the existing circumstances, there being no legal age limit for the marriage, girls are most commonly married before their 11th or 12th year among the Brahmin and the Vysia communities. This, I think for several reasons is not a desirable practice.

The girl to-day as soon as her eighth or ninth year sets in has no other thought except that of a husband. I do not say it is her fault. She is made so by her parents. They also begin to think of her marriage and they consequently talk at home about the choice of a husband for the girl. The girl is thus always made to think of the husband and not of her books and attains early puberty. I think I am not wrong in holding that the thoughts of the girl have an influence on the age of her attaining her puberty. If an age of 14 is fixed for her marriage, this trouble is overcome. Nobody would think and much less the girl about the choice of a match for her until she is about the marriageable age.

I am aware of the popular notion that girls should be married before puberty. But I may submit that people in general are not so keen now-a-days about the so-called religious injunction. They are slowly beginning to be more and more alive to the serious disadvantages of this custom. If a girl ought to be married before puberty, a husband has to be sought for even before her 11th year is full. To fix up a proper match is not an easy task. But under this custom a match has to be fixed up whether it is proper or improper. Before the girl is full 11 years she has to be tied up to some one—old or young, rich or poor, otherwise qualified or not. The would-be son-in-law taking advantage of the anxiety of the girl's parents to get her married, bargains the dowry to his best advantage. The parents of the girl, if they happen to be poor, are subjected to pecuniary troubles and it is not uncommon that several families have become impoverished by this custom. It therefore generally happens that such marriages are more unhappy than not. People are slowly getting tired of this custom and some are already shaking it off openly, while others do so though not in an open manner. I think that this is a physiological moment when legislation should be introduced on this basis.

I may at the same time submit that I am not keen about the age being fixed at 14, if there is real vehement opposition to it. It may be fixed even at as low as 13 as a first step for further advancement. I cannot say that the people at large will be with me in the view expressed. But there is no measure that can be passed without opposition and in this case, I think it is worthwhile facing an amount of opposition and get the law passed.

21. As I have already observed, I am not one of those that depend upon legislation for social progress except it be to just give an impetus to the progress that is already being made in the society. Education—the right kind of education, is essential for real social advancement. The girl is a more important factor in the building up of a society than the boy; and it is to her that good and real knowledge should be imparted. It is more so, because in Indian Society, the girl cannot devote so much of her early life to education as the boy. I do not think that I can go into the question of suggesting the exact system of education that is desirable, which may be left for specialists.

Written Statement, dated the 30th August 1928, of Mr. M. SUNDARAM NAIDU, B.A., Madras.

1. There is no dissatisfaction with the present state of law. But on the other hand we realise that amendment of 1925 has done a good deal of benefit. We are grateful to it. But the goal we aim at has not been attained. So, we want to march on towards the goal we have in view, by increased paces if possible. So the public, the thinking and intelligent public want to raise the Age of Consent. But it is my sincere conviction, that mere raising the Age of Consent will not result in any good within the marital circles unless Sarda's Bill fixing the minimum age of marriage becomes law. Without Sarda's Bill the Age of Consent Bill can work only outside marital circles. It can minimise the number of rape cases.

2. Same as question (1). To bring the Sections 375, 376 of the Indian Penal Code, in line with the Sarda's Bill if passed into law, the Age of Consent ought to be raised.

3-4. No. Not frequent. It has reduced the number of cases outside the marital state. Very few cases come to court. Within the marital state, I think the law had not the desired effect. It is only by passing such a bill as Rao Sahib Haribhais Sarda's such things can be remedied within the marital state. One more method is to prescribe a punishment for the parents or guardians of the marital couple. When once the parties are married, it is very difficult to find out when the consummation takes place or to prevent it or to postpone it. Breaches of the law do not come to light.

5. The girls attain puberty between the age of 11 to 14 in my part of the country. It differs in the labour class, the girls attain puberty only at a late age, i.e., 14 and sometimes 15. In the higher classes of society girls attain their age somewhat at 12 because of their slender frame and their constant thoughts on matrimony as they have no other occupation in life. In the middle class, it is somewhat between 11 and 13, and differs according to her constitution, her occupation, her society, the way in which she is brought up, etc. In communities and castes in which the child-marriages are prevalent, the girls attain their puberty at a low age, because the idea of a husband, maternity, etc., are introduced into the mind at a comparatively early age. Sometimes artificial methods such as drugs, potions, etc., are employed to hasten it.

6. (1) This is not common, but is attempted in those cases of child-marriage, where they want to hasten the puberty of a girl. Practically no case sees the light of the Court.

(2) This is quite common in all those communities where child-marriages are prevalent especially Brahmins. The whole family is eagerly expecting the event, and within a week after that the consummation takes place.

(3) Answers to (1) and (2) answer this. As majority of the girls attain their age before 13, cohabitation takes place before that in all cases where she has been married before that.

These cases, where is a violation of law do not come to Court. For, it is with the consent of both the parties that these things take place and who's there to complain.

7. I attribute it mainly, though not solely, to the ignorance of laws of physical health. Personally I am not aware of any religious text which lays down that injunction. It is only the Kumbakonam Pandits that take shelter under the cloak of religion, and citing religion for its own purpose. It has no foundation in Vedas. At any rate no human religion can force or even suggest cohabitation before puberty. The text for cohabitation at or soon after puberty must be of mediæval origin, during the time of invasions, where there was no security of person. It would have been thought dangerous to keep a matured girl when Hindu girls were likely to be carried away at any moment by the invading foes. The custom had its origin in a political necessity. There is no reason why it should continue.

8. If "Garbhadhan ceremony" means "Nuptials" it is performed. It coincides with consummation of marriage except in that rare class of cases mentioned in 6 (a). After puberty, soon after marriage, on the 3rd day generally, 3 years after marriage in cases where child-marriages are not prevalent. About cases where child marriages are prevalent it is performed soon after (within a week, a month utmost) puberty.

9. No. I do not think so. Medical opinion is against it. At least 3 years must elapse after she has attained puberty. In cases of weak constitution, 5 years or 7 years must elapse. In my opinion consummation must take place only after the age of sixteen. The reasons are many. Girls here attain their age very early due to several causes as I have already indicated. But puberty does not connote physical maturity. It is only after that all the sexual organs mature. Due to economic causes also our girls are weak, and so it is better to postpone the age.

10. The girls here in India are quite ignorant of laws of health, illiterate, and ignorant about sexual affairs. What little they get is from hearsay. It is thought to be immoral to know or speak about sex knowledge. Even a girl of 16 years cannot give such an intelligent consent with due realization of all consequences. A girl of 18 may be expected to give such a consent reasonably.

12. Certainly.* Medical opinion is certain about this. Early consummation and early maternity is a *predominantly chief* though not the *main cause* of the high rate of maternal and infantile mortality, and the consequent deterioration with intellect or physique of the people. We are reaping the sins of our fore-fathers in this respect. The fact that the present generation is comparatively weaker, less in stature, bodily strength, and poor in vitality is due mainly though not solely, to this custom of early consummation which results in early maternity.

13. Yes. The development of public opinion is due to various causes. Due to economical causes, we are forced to postpone the date of marriage for some years. In educated classes, the knowledge of physiology, medicine, vital statistics, etc., has enlightened their opinion. In labour classes, marriages generally are late between the ages of 18 and 20, due to economic grounds, as the marriage of a girl means loss of so much income to the parents. The opinion of a very small section, the orthodox section, of the Brahmin community and Vaisyas is still conservative. Their opposition is due to ignorance of the laws of health and ill-digested knowledge of Hindu religion which they prostitute for their own purposes. But the opinion of that microscopic minority is negligible.

14. The present generation of women do not. The past generation favour it on various grounds. The old hags want to have it finished during their lifetime, so that before their death they might have the pleasure of seeing grand-child or a great-grand-child. It is also due to their ignorance of the laws of health and the superstition based on the old custom, that girls who have attained puberty should not be kept long in the house. With the increased spread of literacy among women, and with the advancement of their education this will disappear.

17. I would favour the separation of marital and extra-marital offences. I would prescribe a more severe punishment in the case of extra-marital offences and less severe in the case of marital offences. The present punishment for extra-marital offence is sufficient, in the case of marital offence, the punishment ought to be lessened, the imprisonment being always simple for 2 years or with fine or with both. The parents of both parties must invariably be charged as *abettors*, and the onus of proving that they were innocent must rest heavily on them. The abettor must be punished more severely than the principal offender. For, in the marital state, the offence can be committed more often than not, only with the active connivance of the parents.

18--19. Yes, there ought to be a difference. Otherwise, the police in this country as it is constituted at present, will often trespass into the marital state and disturb the family harmony, out of mere vengeance or mischief. I would suggest in marital offences that (a) the whole trial including the preliminary enquiry should take place *in camera*, (b) there ought to be a preliminary trial by the District Magistrate and if there is a *prima facie* case it ought to be committed to be tried by a court of session, (c) only a police officer of the rank of a Deputy Superintendent of Police should conduct the preliminary enquiry, (d) the police can take cognisance of the offence only on the report of the girl, or her parents, or in their absence the guardian of her person or her custodian or the order of a District Magistrate on the information furnished to him.

One of the ways to prevent improper prosecution or extortion, is to punish those who furnish false information under clause (d) above severely. To prevent collusion the colluding parties must be more severely punished.

20. No, I do not think so. It must be quite the reverse. The minimum marriageable age of girls must be raised. Raising the Age of Consent in marital cases will not serve the purpose. Any breach of the law will not see the light of day. Both the parties will actively abet and connive at the suppression of the crime. When once the parties are married, who can say and who can prevent effectively the consummation of marriage below the Age of Consent. It will be laying the axe not at the root but at the top. By raising the minimum marriageable age of girls, the evil can be more effectively checked so far as the marital state is concerned.

21. To secure the object in view, more reliance must be placed on the strengthening of the penal law than on the progress of social reform by means of education and social propaganda. It is by legislation alone that the evil can be checked to a very great extent *within a short space of time*. Would *Sati* have been abolished if reliance had been placed entirely on social reform? Why even in Western countries where public opinion is much more enlightened than in the East, they should resort to legislation for all these things. The law of this generation becomes a custom of the next generation. I really cannot understand why in matters like this where the health and vitality of the nation is concerned, the State should not interfere. Progress of social reform by means of education and social propaganda will take a considerably longer time and with much less effect. Penal legislation is vitally necessary to check this evil.

Written Statement of Medical Sub-Committee of the Madras Branch of the Social Hygiene Committee.

1. Yes.

2. There is definite evidence of dissatisfaction which would justify an advance in the present law.

4. Certainly.

5. Between 12 and 14. In the communities in which early marriages prevail, the age of puberty is lower than in others.

6. Among Brahmans, cohabitation is fairly common soon after puberty. These cases, so far as we know, do not come to court.

7. It is only a custom.

8. Yes. Certainly. Varies from the 16th day of puberty to two years.

9. We do not consider that the attainment of puberty is a sufficient indication of physical maturity to justify cohabitation. In normal cases where there is no premature or arrested development three to four years after puberty, or eighteen years, would be a safe age for the consummation of marriage from the medical point of view.

10. This depends upon the bringing up of the girl, and the circumstances in which consent is sought. In the married state—sixteen, and out of it—eighteen, should be laid down as the minimum age at which a girl is competent to give an intelligent consent to cohabitation, with a due realisation of consequences.

11. Affects health prejudicially. In cases where pregnancy occurs in the 18th year the child is always puny, and the mother becomes a physical wreck after delivery.

12. Yes.

13. Yes. Confined to higher and more educated classes.

14. Educated women do not.

16. Difficulty will be reduced.

20. First would be better.

21. Both are necessary. The strengthening of the penal law is essential.

Answers submitted by the Sociological Sub-Committee of the Madras Branch of the Social Hygiene Council.

1. There is great dissatisfaction, because a good section of people demand the raising of the age of consent, both within and outside marital limits.

2. (1) Because tender girls cannot make good mothers, and girls under 14 are not fit for maternity.

(2) Because minor girls are often found living in brothels.

3. Cannot say. Raise the age of consent to 16 or even to 18.

4. (1) No. Can only be done by removing the opportunity.

(2) Yes. In the cultured classes.

(3) Ineffective.

Legislation on the subject is the only remedy.

5. Eleven to 14 years. Yes, it differs.

6. (1) Sometimes it does happen.

(2) Yes.

(3) Yes, if the girl attains puberty before 13 years.

They don't come to court, because of the fear of being considered a rebel to the time-honoured custom, and from self-respect.

7. No. Not at all.

8. Yes. It is invariably anterior to the consummation of marriage, and generally after the attainment of puberty.

9. Certainly not, in this country. At 16 years, three or four years after puberty.

10. At 18 years.

11. Members of this sub-committee who follow the medical profession have come across a few cases which resulted in injury to physical parts before puberty. Results of early cohabitation, before full development, are—abortions, miscarriages, rickety and moribund children and a weak race. These are chiefly liable to Pulmonary tuberculosis and an early grave.

12. The intellectual progress which is now going on without proper regard to physical development, with the bad hygienic conditions of modern city life, has increased the evils of early consummation and early maternity. The infantile and maternal death rates are very much higher under these new and altered conditions.

13. Raising the age of consent is favoured by the public especially by women and the cultured classes.

14. The women prefer the girls to develop well before consummation.

15. Yes. It can be remedied by insisting upon birth registers, and by raising the age of consent to 16 years.

16. By raising the age above 14 years, error is minimised.

17. Yes, as proposed by Indian Penal Code.

18. Both must be tried in camera.

19. Complaints must be made to Panchayats or some sound organisation, as the Vigilance Association, apart from police investigation.

20. Fixing the minimum age of marriage by legislation will find a greater acceptance in the country.

21. It is better to rely on penal measures in this custom-ridden country, at present.

Written Statement, dated the 30th August 1928, of Mr. T. S. RAMASWAMI AYYAR, Madras.

1. No.

2. In the case of unmarried girls, the proposed change will act as a deterrent on wrong-doers and will be a further check upon seduction of girls for immoral purposes.

But in the case of married girls, I am absolutely against any further change being made in the existing law, for the following among other reasons, viz.:—

- (a) Any legislation in this direction means the arrogation by the sovereign of the functions of the Social Reformer.
- (b) Such legislation will amount to a clear, direct and unabashed violation of the pledge given by Her Majesty the late lamented Queen Victoria the Good in Her Proclamation of 1858 that the sovereign will not interfere directly or indirectly with the social or religious customs of any section of Her beloved subjects.
- (c) The legislature having passed a measure on this subject so recently as 1925 and having once violated the pledge of Her Majesty, should not attempt at further violation within such a short period as three years.
- (d) The working of the Act of 1925 has not brought to light any grave danger to the society so as to justify the interference of the legislature domineered by an alien executive and English educated gentlemen who had had no training or education on indigenous lines.
- (e) The proposed legislature is penal and coercive. It will be the height of folly on the part of the State to compel any section of its subjects to violate the injunctions of Shastras by which they consider themselves to be bound.
- (f) In South India ninety per cent. of the girls in the Brahmin community to which I belong attain puberty before they complete the age of 13 and owing to social and economic conditions prevailing now, it has been found impossible to get a girl even married (betrothed) before she is 13 which is the age of consent under the present law.
- (g) The law as it stands has ignored the difficulty in protecting virgin girls who have attained puberty before 13 and keeping them safe in crowded families or who by reason of the fact that they are parentless or owing to other causes are uncared for or depend upon the bounty of indifferent relations. Any further inroad will intensify this difficulty.
- (h) Even assuming that the proposed measure becomes law it will remain a dead letter in the case of husbands who happen to have carnal knowledge of their wives before the latter reach the statutory age. Prosecution of the husband will spell life-long misery to the wife whom the legislature proposes to protect.
- (i) In the case of Brahmins for whom alone I speak, their existing customs have not deteriorated their physique or their intellectual verity. If mental or physical deterioration has set in among them, the reasons are sought to be elsewhere. Perhaps it is due to their tendency to abandon their traditional simple ways of life and to adopt extensively Western methods in their home life.
- (j) A legislature which is mostly manned by persons, who are not Brahmins, are persons who are least competent to interfere with the social customs of the Brahmins and to impose their will by a penal legislative measure.

3. No. Public opinion is sufficiently strong to prevent such crimes. In my opinion the Act of 1925 has had no effect either for good or for bad. Change of time and increasing literacy among the members of both sexes have checked the crime if any considerably.

4. In South India marriages are as a rule celebrated a little while before, at or after 13. Changing social conditions have brought about the desired effect. No legislation is necessary.

5. I can speak only of my community. Twelve to 13 is the usual age when girls attain puberty. I do not think the age differs in different communities. In my opinion it depends upon the climatic conditions of the country and the opulence or otherwise of the parents of the girl.

6. (1—2) No.

(3) In some cases which are few and far between where the wife attains age at or soon after 12.

To my knowledge no cases have come to court.

7. Shastras prohibit consummation before or at puberty.

8. It is performed in the Brahmin community *at the time of consummation*. It is performed after puberty and generally six months to two years after puberty.

9. Yes. In a country like South India but by way of caution generally consummation is postponed to at least a period of six months to one year after puberty.

10. Speaking of my community at present literacy is the rule among our girls. A girl is in my opinion competent at the age of 13 to give her consent.

11. I do not possess any such experience and I am unable to give any answer.

12. No. In my opinion, the drifting of our girls from their old and traditional habits in matters of food, clothing and domestic amenities and the like, life in crowded towns, herding of persons of both sexes in schools, colleges and elsewhere, multiplication of expensive habits and wants in home life owing to adoption of western manners, increasing poverty, lack of knowledge of rearing children and vicarious nursing of children are responsible for increasing maternal and infantile mortality.

13. Speaking of marital cases the Act of 1925 is a dead letter. Economic and social forces have brought up the age at which marriage is possible to 13 and more.

14. The question does not arise because generally marriages are not now possible till a girl attains the age of 13 or more.

15. I am not a lawyer and I am unable to answer.

16. The difficulties in ascertaining correct age will be increased if the age of consent limit is raised.

17. Yes. As regards marital offences I am of opinion that the punishment should not exceed a fine of Rs. 50 (fifty) and that imprisonment should not be awarded at all even as an alternative to non-payment of fine.

18. Yes. As regards cases against a husband, the offence should be tried as summons cases and as a rule be made bailable ones and only cognisable at the instance of health and not police authorities as I consider the former is a lesser evil than the latter.

19. No.

20. Penal legislation will lead to blackmail and will not give desired results in any case.

21. I prefer progress of social reform, evolution of economic and social forces and the like to secure the object in view in the case of offences within the marital state. But in cases of offences in extra-marital state, I rely on the strengthening of the law to achieve the end in view.

Written Statement, dated the 27th August 1928, of Sri YADUKULA MAHA SANGAM, Triplicane, Madras.

1. Yes.

The age of consent in the case of strangers must be put down at 16 years and in the case of husband at 15 years.

As regards the punishment for rape, a husband should not be punished with imprisonment. A fine on conviction will be sufficient.

Girls in this part of the country generally attain puberty in their 13th year and two years being necessary for proper and sufficient development, the age of consent may be fixed at 15 in the case of husbands and 16 in the case of strangers.

2. The law should not be retained as it is. An advance on the present law must be made.

3—4. I have no knowledge.

5. Between 12 and 13. It does not differ in different castes, communities or classes of society as it depends entirely upon climatic conditions.

6. (1) There is no cohabitation at all before puberty.

(2) In some cases—especially among Brahmins.

(3) In some cases if the girl were married before attaining puberty. I do not know of any case having come to court.

7. I do not think that there is any religious injunction laying down early consummation of marriage before or at puberty.

8. Yes. It coincides with consummations of marriage.

It is after attainment of puberty and generally within three months after marriage.

9. Certainly not. Two to three years after puberty.

10. At 15 years.

11. Cohabitation after puberty but before full physical development resulted in injury to health.

None, to my knowledge.

12. Yes.

13. No.

14. Yes.

15. Not answered.

16. No. The difficulty may be minimised if it is suited to 15.

17. Yes. In the cases of husbands a fine on conviction would be enough. In the case of strangers the punishments in the sections would seem to be all right.

18. In the cases of husbands, the trials may be by Honorary Magistrates.

20. Fixing the minimum age of marriage will be more effective.

The latter.

21. Social reform by means of education and social propaganda alone cannot be relied upon. The law should also be strengthened to secure the object in view.

**Written Statement, dated the 30th August 1928, of Mr. T. V. RANGA
ACHARIAR, B.A., B.L., Chittoor.**

1. There has been no dissatisfaction with the state of the existing law.

2. I am in favour of making an advance and raising the age of consummation of marriage to 14 as I consider that generally it will tend to a better physical development of the girl and to her better health and consequently of her progeny.

3. Crimes of seduction and rape have not been frequent in this part of the country.

4. I don't think the amendment as such had any direct effect in the directions indicated but advancement of education and a growing realisation on the part of the people of the advantages of postponing consummation

and also of marriage have chiefly tended to bring about the results indicated. But more than even this, postponement of consummation and even of marriage of girls in many leading families of late have also been encouraging examples to several others.

5. The usual age for attaining puberty is between 12 and 14. In more respectable and well-to-do families (rather than communities) girls are believed to attain puberty earlier. Even here it is certainly not earlier than 12 or 13.

6. Consummation is generally had a year after the attainment of puberty. In exceptional cases it may be earlier. Supposing the husband lives away from the family and alone, say on employment, it is considered that in the interest of the husband wife should join him and consummation may be expedited. But I have never heard of any case of cohabitation before puberty.

8. Garbhadanam ceremony is performed in these parts particularly among the Brahmins. The ceremony is performed at the consummation of the marriage. It is performed after puberty and I am not aware of any time limit. It may be performed at any time after puberty.

9. The attainment of puberty is not in my opinion an indication of physical maturity for consummation of marriage. I would prescribe even 15 or 16 as the age before which consummation should not be performed.

10. I would consider 15 or 16 as the age when Indian girls may give such an intelligent consent.

11. I am not aware of any.

12. This is no doubt one of the several causes that affect physical vitality.

13. There has been a development of public opinion generally in favour of an extension of the age of consent but it has no reference to the amendment of the law.

14. Yes. Women are generally in favour of early marriage and consummation after their puberty. Generally this is done by her 14th or 15th year, cases beyond or below this age being very exceptional. The husbands in all such cases often happen to be above 20 years old or a little over and it is considered prudent and highly desirable to have the consummation about that time.

17. I would certainly differentiate between marital and extra-marital offences. The object of the former must not be punitive or deterrent but purely educative and in that view punishments must be lenient. I would in no case suggest imprisonment in any form.

20. This is really a very important matter for consideration. I am decidedly of opinion that penal legislation fixing a higher age of consent for marital cases is likely to be more effective than legislation fixing the minimum age of marriage. It must be admitted that the custom among the higher castes particularly among the Brahmins is that the marriage should be celebrated before the girl attains puberty. Texts are quoted from Dharma Sastras which clearly lay down that the girl must be married before puberty.

Among the Hindus marriage is considered a sacrament regulated by the Dharma Sastras. That being so I consider it highly undesirable that any law should be passed by a legislature composed of members of different communities or religions the effect of which will be to modify or alter the existing practice which is founded on religion and Dharma Sastras. In these circumstances the fixing of any age-limit for marriage as proposed is calculated to cause considerable hardship and inconvenience. Girls do attain puberty some time after the age of 12 and mostly before the age of 14. If the religious feelings or customs should be respected it clearly follows that any age-limit beyond 12 cannot be thought of. Having regard to the existing social conditions and the comparatively limited field for alliances, fathers of girls usually are on the look-out for a suitable bridegroom usually a year or two in advance of the expected puberty of the girl which cannot

of course be definitely predicated as the same depends upon heredity, social position and the environment of the family. There are also other considerations which have to be taken into consideration. A bride's father may sometimes have to get through her marriage in a particular year lest he may forego the chance of getting a suitable bridegroom. There are also other considerations such as the position of the family, position of its earning member, the conveniences of the family in the matter of celebrating the marriage in any particular year. These and other considerations too numerous to detail make it imperatively necessary that no age-limit should be fixed for a marriage. Ordinarily it has become a prevailing practice in these parts to celebrate a girl's marriage about her 11th or 12th year, sometimes even 13 or 14 if conditions would permit. Ordinarily a girl is not married before she is ten. But in all cases the parent is anxiously looking about for a suitable bridegroom and this generally keeps him engaged for a year or two and sometimes even more. It is extremely difficult to predicate when he shall be able to secure a suitable bridegroom and when he gets one he cannot afford to miss the chance. Any attempted legislation fixing an age-limit will seriously imperil the fortunes of many a bride. For these and other reasons I am strongly not in favour of fixing any age-limit for marriage but if an age-limit is found necessary I would suggest 10 as the limit. On the other hand I am of opinion that the object in view would be better attained by fixing an age-limit for consummation of marriage. This in my opinion will be in consonance with public opinion here and other parts of the country. This course will not be offending religion or orthodox sentiment. Whereas the former is calculated to produce a commotion besides being open to serious objections on the ground already suggested.

21. In my view the object could be best attained only by the progress of public opinion by means of education. But a penal law of the kind will also tend to educate public opinion in the same direction provided the penal law is carefully and discreetly administered under suitable safeguards to prevent harassment and annoyance.

Written Statement, dated the 31st August 1928, of Mr. V. VASANTHA RAO GARU, B.A., Pleader and Municipal Chairman, Proddatur.

I have the honour to forward herewith my opinion on the Age of Consent Bill for the information of the Committee now sitting at Simla. It is a well-known fact that in this country, girls attain age more early than in the cold countries and that unless such girls are prohibited from having sexual intercourse for a pretty long period after puberty, not only will their health be shattered but their progeny will be weakened. But the question is how to prevent this? It can be done by postponing the marriage of girls or postponing the consummation, with the help of necessary legislation. With regard to postponement of marriages, orthodox opinion is very strong against it and the period cannot be extended beyond 12 years as generally by that period, girls attain puberty; and post-puberty marriages are prohibited by custom. Therefore legislation can only help in the matter of fixing the age at which consummation could be performed. If legislation is undertaken for this purpose, it would end in untold miseries affecting marital rights. Respectable people might be exposed to criminal prosecutions at the hands of their enemies, peace and harmony in the families might be disturbed, and the honour of many an innocent girl ridiculed. Therefore I am against legislation in this direction also. So it should be left to the good sense of the parents of the married couple. Already great advance has been made in the direction of postponing the age at which marriages or consummations are done. Marriages after puberty are taking place even in orthodox families and consummations too are being postponed. Though the Society is winking at this change, it may not like legislation at this stage. Public opinion should be further educated before legislation is undertaken in socio-religious matters. Further the persecution of the heads

of the religious Mutts may continue in spite of such legislation at this stage. I am fortified in this opinion by the circumstance that sections 375 and 376 of the Indian Penal Code are dead letters.

With respect to non-marital consummation, I would fix the age at 16 and legislation can be undertaken in this matter.

1. The provisions of sections 375 and 376 are not known to the general public and there cannot therefore be said that there is any public opinion with reference to them. But among persons who are and can be expected to be aware of these provisions there is no dissatisfaction, though many would wish the age of consent were fixed a little higher.

2. The question may be dealt with under two heads:—

(1) As regards the proposed change in clause 5 of section 375 of raising the age from 14 to 16 it is desirable from many points of view:—

(a) The consent given by a girl of 14 years of age will be the consent of an immature intellect which cannot be expected to realise the nature or consequences of the act consented to.

(b) The consent ignorantly given invariably leads to disastrous consequences.

(1) Early maternity and risks to life in child-birth.

(2) Attempts at abortion recoiling dangerously on health.

(3) Increase in cases of infanticide.

(4) Impossibility of maintenance of illegitimate offspring by mother at 14.

(c) The marriageable age of an Indian girl being usually between 14 and 16 the chances of virgins being victimised will be lessened, the state of married life acting as a check.

(d) A consenting girl of 14 years of age will be hardly able to withstand stress of cross-examination on the question of consent in a court of law, and it would therefore be impossible to find whether consent was really given or not.

The second head of rape in married life will be dealt with later.

Seduction is far more frequent than rape, instances of which are only rare. It is too early to pronounce any opinion on the visible effects of the proposed amendment.

To make the law effective, besides any statutory changes which may be made in substantial law, it is highly desirable to modify the law of procedure to suit cases of rape, and to prescribe a special mode in the Criminal Procedure Code, such as by making all such cases triable *in camera* and the records of such cases made inaccessible to all except the parties concerned. In fact, the infrequency of cases of rape coming to light is due to the diffidence of the party victimised and the disinclination of the friends and relatives to countenance a public enquiry affecting the future of the victim.

4. The amendment would be ineffective as the original provision itself, clause (3) above, would be the best check. No doubt stimulating public opinion, if the attempt succeeds at all, would go a good deal towards amelioration of the evil but the propaganda is not likely to achieve any success more than any other social reform movement. The progress is bound to be slow and uncertain.

Clause (a) would be effective when there is some ceremony accompanying consummation, but it would be no check against the husband and the wife consummating marriage without the knowledge of the elders.

6. Sometime before puberty when the disparity in age between the husband and the wife is marked and the husband's relatives are anxious to guard him against a wayward life. This is confined to the communities wherein pre-puberty marriages are obligatory.

(2) The seventh day after the puberty is considered *ipso facto* auspicious even with reference to astrology. This is the trick to circumvent the

natural disinclination of the girl's parents and to avoid their postponement on the pretexts of choosing auspicious muhurtams.

7. The practice of early consummation is not attributable to any religious injunction as much as to a desire to see that the grown-up husband is fixed to a settled life. I am not aware of any religious injunction concerning this matter.

8. The ceremony of Garbhadan is one of the 16 Samskaras which every Hindu must get performed. In pre-puberty marriages what is done is that the mantras of the Garbhadan Samskara are also chanted at the marriage itself, clearly indicating that the pre-puberty marriage itself is the outcome of some exigencies supervening the *Shastraic* injunctions. The real consummation is necessarily postponed to the time of puberty. This happens in the Brahmin, the Komity and other communities imitating the Brahmin community.

No.

At least 3 years must elapse after puberty.

9. The attainment of puberty is not a sufficient indication of physical maturity to justify consummation of marriage. At least 3 to 5 years must elapse after puberty.

10. In India considering that an average girl has not any education to realize the significance of married life, the age should be very high—at least 18—for her to have some knowledge of marital life before she gives consent to cohabitation.

11. I have as a free medical practitioner come across a number of cases where cohabitation immediately after puberty resulted in injury to the girls' health:—

- (a) A Vaishava girl of 14 was nuptialised on the 13th day of puberty. Hæmorrhage set in immediately. Within a month she got galloping consumption and died.
- (b) A Kommuti girl of 16 was nuptialised on the 12th day of puberty; within 3 days of cohabitation she was down with paraplegia.
- (c) A Smaitha girl nuptialised within a month after puberty was down with hæmorrhage and prolapsus of the vagina.

12. Early consummation and early maternity are certainly responsible for high maternal and infantile mortality and do stand in the way of the progress of the people.

20. Even a higher age of consent cannot be effective when there is minimum age of marriage. Maximum age of marriage by legislation is what is desired.

21. Social reform now is very slow since the bulk of the people are not cultured. Hence we now look to law and set right the existing evils.

Written Statement, dated the 4th September 1928, of Mr. S. K. ABDUL RAZAK, M.L.C., Saldapet.

1. There is no dissatisfaction with the existing law because the law is not known to the vast majority of the masses who cannot, even if they wished, successfully book the offender much less obtain reliable evidence against those whose influence staggers the victim and whose wealth purchases the silence of her guardians. The natural aversion to ruin the entire future of a girl by a public exposure or a public trial and the utter impossibility of obtaining direct corroborative evidence of actions done in secrecy also make the parents hesitate before venturing on an uncertain criminal prosecution. The dissatisfaction is not about the insufficiency of the law as it is at present, but with regard to the publicity and undue notoriety of a criminal

prosecution and the burden of proving all the ingredients of a man-made law before a conviction is secured.

2. I attach no great importance either to the retaining of the existing law or to an advance over the same, as no legislature and no law can succeed in mending human nature. India is a caste-ridden country and sentiment largely rules the masses who cannot therefore be improved and much less frightened, by legislative Acts imposed on them. The element of compulsion inherent in a legislative Act is unsuitable to the present mentality of Indians and the object can be gained more effectively and perhaps sooner by wider diffusion of sound education on national lines.

3. Rape is very rare in these parts. But neither the old law nor its amendment of 1925 has deterred the rape-inclined people from doing what they liked. The rarity of the offence is due not to the fear of law but partly to the want of proper facilities and partly to the availability of willing women to serve the needs of men inclined in that way. Law cannot be made more effective by mere addition. Wider education is the only remedy. Reforms from within last longer than when they are imposed from outside.

4. (1) No. Marriages are generally delayed now-a-days more on account of economic pressure and slightly by inclination. Child marriages are becoming rare and are confined to Brahmins and Vysias.

(2—3) Economic pressure and modern education are doing their work slowly and imperceptibly to make the male disinclined to go through the farce of a marriage unless its consummation is near at hand. The best remedy is education and patience. Legislative pressure in such matters will neither be fruitful nor successful and will only make the Government more unpopular.

5. Puberty time varies with families and with the opulence and comfort commanded by parents. Usually the age is 12 to 13 and 15 in the case of extremely poor people.

6. (1) No.

(2) No. Except in poor classes, in whose cases, there is no restriction of a ceremony as among others.

(3) Very rarely in Brahmins and Vysias. No cases are taken to court as such cohabitation is based on usage and legal marriages.

7. Hindu religion operates a great deal in the higher classes to bring about consummation at puberty age or immediately after. Vedic and puranic portions are quoted sometimes for, and sometimes against early marriage. It is futile to search for vedic or religious authorities, as religious precepts and scriptures can be quoted—like statistics—to support any view that is advocated.

8. Yes. Among Brahmins and Vysias, who perform anti-puberty marriage, but not among Non-Brahmins who are invariably for post-puberty marriages. The ceremony is called "Nuptials" and is celebrated soon after puberty.

9. Attainment of puberty does not in hot countries indicate physical maturity for consummation of marriages. Preparedness for consummation is a question of domestic affluence and happiness; but it is safer to postpone it until the body is fully developed. Fourteen might be a fit age for girls and 20 for boys.

10. About 14.

11. Rejected and unserviceable physical wrecks can be counted in scores in the streets of big towns or in the verandahs of brothels and chuttrams.

12. Yes. All medical authorities support this view.

13. Only the educated are for it. The rest do not know the existence of the law and rarely care to know what it is.

14. Yes. It is the highest pride of a mother to see her son or daughter placed on her own line of life as early as she can.

15. Courts are being confronted by jathagams and horoscopes proving either party's version. Better and accurate registration of births is the only remedy available.

16. No. The same problems will be repeated.

17. A husband is entitled to reach his own wife and should not be deterred by man-made law. His own good sense and the consent of his girl-wife will make a prosecution impossible; and a detection of such domestic but morally evil offences will heap obloquy on the majesty of law and its custodians.

The existing law is quite enough to prevent these. The marital indulgence is claimed as a privilege and it must be left to the good sense of the parties to make or mar their future. The extra-marital offence is too grave and no punishment can be too severe for it.

18. Punishment of marital offences is not recommended. Trials of extra-marital cases and all cases connected with females should be held *in camera* and their publication entirely prohibited.

19. Collusion in marital offences cannot be got over and hence it is no use to pry into them. Improper prosecutions and extortions are becoming rare.

20. I do not advocate either procedurp. In India, legislature which is understood by the masses to be no other than the King and His Majesty's Government, should keep aloof in such socio-religious matters and allow time and education to bring about the desired reforms. Public opinion is equally divided and can be made to support either view to suit the purpose of anti-Government agitators. Education and social reform movements and the increased struggle for existence are changing the mental outlook of the people faster than all the laws and enactments have done in the past.

NOTE 1.—The above remarks do not, and cannot apply to the Muslim community which knows no such evils as child-marriage or marriage without consummation, or marriage at exactly the puberty age. Their hereditary instinct and their rigid social and religious rules have saved them from the evils referred to above. Their proverbial poverty (at least among a vast majority) has made it impossible for them to indulge in early marriages and to separate the ceremonial portion of a marriage from its real significance.

Written Statement, dated the 28th September 1928, of Mr. K. V. MENON, Secretary, South Indian Liberal Federation (City Branch), Madras.

The South Indian Liberal Federation is an association started in 1916 for the social, moral and political development of the non-Brahmin classes in the Madras Presidency. It includes among its members, members of the various communities of the non-Brahmins, not all of whom observe the same customs and manners in social matters. Its object is to bring them to a common level of progress and to make them realise their full stature, by intellectual, moral and social progress and by political evolution. The Federation thinks that there is an impression abroad and, as it feels, an erroneous impression that the non-Brahmins in South India are not affected either by the age of marriage legislation or the age of consent legislation. So far as the marital state is concerned this impression has no basis. In fact there are a number of sub-castes among the non-Brahmins who practise the system of early marriage and much of the work of the Federation consists in raising all these classes up to the level when they will realise the need for social progress particularly in matters like marriageable age. Not merely are there several sub-castes which observe pre-puberty marriage system but even among classes which normally marry after puberty the example of the so-called high castes is often followed with disastrous results to the children and the future progeny. For both these reasons the

Federation is vitally interested in the problems that face the Committee and has come forward to present this memorandum.

Interference with religion.—One constant line of attack from those who may be described as orthodox exponents of Hinduism is that legislation raising the age of marriage or the age of consent is in violation of the pledges given by Her Majesty Queen Victoria and by the British Government. The opponents of such measures bring a strong indictment against any Government which tries to pass social legislation of any kind and charge them with breaking the pledges of the past. We would not have taken these objections seriously but for the fact that in the past we have seen many instances where both the local Governments and even the Imperial Government have been warned off their track by such objections. In this Presidency, on more than one occasion, legislation of the kind now proposed was thought of in one form or another. The Hon'ble Mr. V. S. Sastri so early as 1914 introduced a Bill for making pre-puberty marriages impossible, for making it compulsory that marriages should take place only after the attainment of puberty; but either the indifference of Government or their dread of orthodox opinion and possibly their nervousness to the charge of interference with religion or all of them together have been responsible for shelving that Bill.

Objections answered.—The exponents of the theory of interference with religion, point to Her Majesty's great Proclamation of 1858 which says, "We do strictly charge and enjoin all those who may be in authority under Us that they abstain from all interference with the religious belief or worship of any of Our subjects on pain of Our highest displeasure". Her Majesty also declared it to be Her "Royal will and pleasure that none be in anywise favoured, none molested or disqualified by reason of their religious faith or observance, but that all shall alike enjoy the equal and impartial protection of the law". It is on these passages in the Proclamation that the social obscurantists base their opposition to all social legislation. It is obvious that a fuller reading of the Queen's Proclamation will not justify the interpretation, narrow and exclusive, that is sought to be put on it by the orthodox opposition. The Queen directed "That generally in framing, and administering the law, due regard be paid to the ancient rites, usages and customs of India". It is hardly necessary to point out that in this latter direction which is positive there is no absolute prohibition against any interference with the ancient rites, usages or customs of India.

Not merely this, but we have to take into consideration the Acts of Parliament which followed the Queen's Proclamation and which gave statutory effect to the ideas and intentions embodied in that great Proclamation. The Indian Councils Act, 1861, is the statutory embodiment in fairly precise terms of the general principles set out in the Royal Proclamation, and, so far as that Act is concerned, not merely is there no positive prohibition against legislation affecting matters of religion, but, on the other hand, there is an express provision permitting of such legislation. The possibility of such legislation is clearly contemplated. The only safeguard that is sought to be left is against irresponsible initiation of such legislation. Section 19 of the Indian Councils Act makes it clear that with the previous sanction of the Governor General measures affecting the "religion or religious rites and usages of any class of Her Majesty's subjects in India" may be introduced not only into the Imperial Council, but also into the Provincial Councils, wherever they may be established. This authority has been continued in successive revisions of the Government of India Act, and the latest Act of 1919 contains a clear provision to the same effect. Is it possible under these circumstances that either from the Queen's Proclamation or from any Parliamentary statute, a prohibition could be spelt, positive and uncontradicted, against any interference with ancient rites, customs or ceremonies or even with religious matters?

It may also be mentioned that the Queen's Proclamation was not conferring a new right or extending a new principle, but that the principle

enunciated therein was long recognised by the Court of Directors and the East India Company and was repeatedly given effect to by them and was also embodied in the Charters which were granted by Parliament from time to time to the East India Company. It is essential to remember this historic background to make the orthodox opposition understand that it is impossible for them to use the argument of interference with religion with any success.

It is true that religion cannot be lightly interfered with by a legislature and that ancient customs, rites and ceremonies cannot be abolished without proper cause. The Queen's Proclamation speaks of due regard being paid to these customs and rites and there is a classic interpretation of what the phrase "due regard" means in connection with the great emancipatory measure of Lord William Bentinck which put down the practice of "Sati". The legislation in connection with that Bill, the agitation that was raised against the measure both at its inception and after it was passed, are very similar to the agitation that has frequently been raised by the orthodox section against the age of consent. It is quite true that to-day the orthodox people turn their eyes in horror and say that nobody would be prepared to support the practice of Sati but their ancestors in the thirties of the last century were no more unreasonable and bigoted than they are to-day, and the arguments which they advanced are identical with the arguments that are advanced to-day. After the regulation had been passed into law by Lord Bentinck's Government, an appeal was presented by the orthodox section to the King in Council against that measure. In the course of the appeal the learned orthodox pundits said that it was "an interference with the most ancient and sacred rites and usages of the Hindus and in direct violation of the conscientious belief of an entire nation". It was also urged "that the abuses (if any) which may have arisen or occurred in the practice of Sati can be effectually prevented by a proper attention to the opinions of the Hindus, and an equitable administration of the existing laws, without requiring a total interdiction of the practice". It was further alleged that the regulation was "unjust, impolitic and a direct infringement of the sacred pledge to keep inviolate the religion, laws and usages of the Hindus, manifested throughout the whole general tenor of the Acts of the Legislature of Great Britain and the regulations and conduct of the Government of the East India Company". The Privy Council recommended that the petition should be dismissed on four grounds, the third of which ran as follows:—"Because the Regulation (Regulation forbidding Sati) cannot properly be regarded as a departure from the just and established principles of religious toleration in the observance of which the stability of the British Government in India mainly depends, and because the rite is not prohibited as a religious act, but as a flagrant offence against society." The Privy Council further added that "it admits of question whether the rite is sanctioned by the religious institutes of the Hindus, that by many of the most learned Hindus of the present day it is regarded as absolutely sinful, and that it was the duty of Government to prohibit a practice which so powerfully tended to deprave the national feeling and character, and which taught perverted religion to predominate over the best feelings of the heart". The Court of Directors in rejecting the appeal said that "the power of making laws is vested in the Governor General in Council, which power is recognised and confirmed by the British Legislature, that in exercising this power the Government of India has at all times manifested a just attention to the religious opinions and customs of the natives so far as is compatible with the paramount claims of humanity and justice, and that a discriminating regard for those religious opinions is not incompatible with the suppression of practices repugnant to the first principles of civil society and to the dictates of natural reason".

It seems to us that the present aim of legislation is the same as that of the abolition of Sati though the horrors may not be as apparent as in the immolation of Hindu widows on the funeral pyre of their husbands. The child-girl who conceives at the 12th, 13th or 14th year does double disservice to herself and to her progeny, and her future existence is a living death

far more horrible than the quick and certain death by fire of the Hindu widow in a moment of ecstasy, forced or voluntary.

Questionnaire.

1. There is considerable dissatisfaction with the state of the law as to the age of consent obtaining at present. The age of 13 has made practically no difference. Few even among the educated classes are aware of the amendment that has been introduced. Early marriages go on quite as freely as before among those castes who are accustomed to marry at that age and the consummation of marriage takes place as soon as puberty is attained, which is generally between the 12th and the 14th year. There must be many cases, in fact, we know of some, where consummation has taken place before the 13th year even after the Act was passed. There is thus a general feeling that the law has fixed such a limit as to be practically inoperative and that the benevolent intentions of the legislature have been made nugatory by the very conservatism of its enactment.

During the last two years there has been a particular impetus given to this subject by various attacks that have been made on Hindu customs and manners, some by sympathetic critics, more by those unsympathetic outsiders who are determined to exaggerate and to distort the facts and circumstances of Hindu society. Publications which need not be mentioned in detail here, which have gone forth to the world exhibiting Hindus as most callous beings, subjected to most revolting customs and manners, have had not a little effect in making the generality of people, determined to do everything in their power to put down the abuses that are prevalent amongst a small number of their countrymen and which give room to these unjust aspersions against the whole society. The dissatisfaction has palpably been more within the last two years.

2. The answer to the previous question shows the circumstances which justify making an advance on the present law. The present law gave such a narrow margin of increase that it was very little effective that it was really taken no notice of and that no serious consequences in improving the state of society followed on the introduction of that law. Public opinion has been specially stirred during the last 2 years and is in favour of an advance on the present law.

3. The crimes of seduction or rape are not frequent in our part of the country, Madras being under settled circumstances for several centuries, and except among the poorer and ignorant classes in remote and uninhabited parts of the country, neither of these crimes occur in any large numbers in any part of the Province. The age of 14 in cases outside the marital state is, in the opinion of the Federation, too low. It is anomalous that different ages should exist for different offences of the same category under the law. At present 14 years is the age of consent in cases of rape, 16 years is the age of consent in cases of seduction and abduction, 18 years is the age of majority. Beyond being confusing they are also illogical. The Federation would suggest that there is no reason why 18, the age of majority, should not be the age of consent in cases of rape, seduction and abduction. The latter two offences do not come within the purview of the enquiry by the Committee, but to give a complete answer the Federation has put forward what it considers the proper age for all these offences.

4. This question has already been answered. The raising of the age to 13 has had appreciably no effect at all.

(1) It has not postponed the consummation of marriage. It does take place among the Brahmin caste, in many instances, practically as soon as the first signs of puberty set in. The Association knows of cases where within a week or a fortnight of the first signs of puberty consummation has been arranged, the girl practically being within her 13th year.

(2) Public opinion has been stimulated but not as a result of the Act of 1925. Other matters which have been already referred to have stimulated public opinion.

(3) The Association knows of no instances where on account of the legislation of 1925 marriage has been put off beyond the year 13.

- My Association would suggest that the age of consent ought to be further raised and that side by side with that legislation fixing the age of marriage should also be adopted. These two steps *pari passu* could alone achieve the objects in view.

5. The usual age at which girls attain puberty in this part of the country is between 13 and 14. It differs slightly in different castes, among the Brahmins for example the age being a little lower sometimes 12 and often between 12 and 13. The constant talk of early marriage is one of the causes for early attainment of puberty amongst some of the classes which practise this system of early marriage.

6. (1) Cohabitation before puberty is not common in any part of the country among any class or classes of people.

(2) Cohabitation almost immediately after puberty is common among the orthodox section which practise early marriages, but among other classes even where early marriage does take place occasionally and in most cases where late marriages do take place, consummation is still put off for a fairly long period after the first signs of puberty.

(3) There have been cases of cohabitation before the girl completes the 13th year. These cases have not come to court because of certain difficulties of proving the age of the girl and the unwillingness of the neighbours to penalise the thoughtless act of the parents or the guardian. Moreover, if a sufficiently high age were set up, it is possible that the heinousness of the crime would be more forcibly brought home not only to the parents but also to the neighbours and the chances of such cases coming into court would be better.

7. The practice of early consummation of marriage is supposed to be based on religious injunction, but as we know that the persons who follow this practice have broken many other religious injunctions of a more mandatory character, it is impossible to suggest that it is religious injunction alone that is responsible for this practice. Custom, the requirements of the old women in the family, who long to see the marriage before they die, unreasonable and improper as those requests and requirements are, the difficulty of securing a proper boy after the girl is grown-up and the boy also is grown-up, the greater money that has to be paid in the form of dowry to the boy when he is so grown-up that his future is fairly certain, all these are as much reasons for early consummation of marriages as any religious injunction. Boys in this part of the country, in such cases, are married at an early age, 14 or 15 before their future is known, before their education is fully developed and before the parents are in a position to say whether the boy will prove to be a clever and successful man or not. The price for the boy is therefore less at this stage than later when the boy is a graduate or a double graduate in which case the parent of the bride has to pay a heavier dowry to the boy.

It may, however, be stated that even amongst orthodox people, particularly in the towns, the practice is growing up of having the marriage of girls performed after puberty and the consummation of such marriages fairly long after puberty but of trying to keep the fact of puberty a secret and pretending that the girl has not yet attained puberty. Such cases only show how even orthodox opinion is changing and it requires just a little firm assistance from the legislature to make the orthodox section throw overboard the injunction which hits it hard and is so full of peril to the young children.

8. The Garbhadan ceremony is still performed in our part of the country usually after marriage and coincides with the consummation of marriage. It is performed only after the attainment of puberty. In the case of those who perform early marriages it is performed almost immediately after the first signs of puberty. In the case of others it is performed, sometimes, years after puberty.

9. The first signs of puberty are certainly not an indication of physical maturity. It does not justify consummation of marriage. There ought to be at least two years interval between the first signs of puberty and the consummation of marriage to justify consummation without injury to the child's health or her future progeny.

10. The Association does not believe that any girl could give an intelligent consent to cohabitation with due realization of consequences unless she has attained majority that is, she is about 18 years of age.

11. The Association has a number of medical members and it is the opinion of such members that grave and serious consequences have resulted in cohabitation soon after puberty. Sterility is one of such evils, another is the displacement of the womb resulting in constant abortions. The third is of course the birth of immature children who die before they are one year of age. These are, however, subjects on which medical experts are better qualified to give an opinion.

12. The Federation is of opinion that infant mortality and high maternal mortality are largely due to the early consummation of marriages.

13. This question has already been referred to. The association would be in favour of raising the age of consent in marital cases to 15 and extra-marital cases to 18. This is general and not confined to any particular classes.

14. The education of women has progressed remarkably in the Madras Presidency. At the last convocation over 125 ladies took their degree. There are two well-equipped colleges with residential houses in the city of Madras accommodating nearly 400 students and there are other colleges in the mofussil. The number of schools for women are several scores. There has been great educational expansion, and the women are taking interest in the public life of the country. It can only be said that women are entirely in favour of such a measure. Such women as are able to bestow any thought on the subject, educated or not are entirely in favour of raising the age of consent and against early consummation of marriage for their children. Women associations, of which there are many, will give the Committee an idea of the women's point of view, but our association which also includes women members, is definitely of opinion that women are antagonistic to the early consummation of marriage for their children.

15. The difficulty is generally experienced in determining the age of girls as there are no accurate statistics or birth registers in rural areas indicating the age of the child-girl. The measures to remove these difficulties would be effectively to strengthen the machinery which is now in charge of keeping birth and death registers in the mofussil. It ought to be incumbent on the village headman, who registers these in the villages to report them immediately at the Tauluka office, and the Tauluka office should have a register for each village. That would produce as much accuracy for the village as is now obtainable in the case of cities.

16. The margin of error would certainly be materially reduced if the age of consent is raised to 15 and 18 as we have suggested above. My association does not agree to the separation of extra-marital and marital offences into different offences. It is not desirable that the gravity of the offence should be minimised in that way. In the case of marital offences, the offence is an offence affecting the wife, not as wife, but as a human creature, and it would certainly weaken the effect of law if the legislature were to draw a distinction in favour of cruelty on the part of husbands. With regard to the amount of punishment to be inflicted, my association has no reason to believe that the present maxima fixed for the offences are inadequate, and if there is any unreasonable tendency on the part of Magistrates or Courts to award a lesser punishment than is justifiable to a husband, such matters can be rectified by the Government taking the matter on revision to the higher court or issuing instructions to Magistrates pointing out the need for enforcing the law without undue leniency.

18. While my association does not think that the offences should be separated, it certainly is of opinion that the procedure must be different in

the case of intra-marital offences: prosecution can only be launched at the instance of a relation of the party affected and not at the instance of strangers. So far as extra-marital offences are concerned, it may be cognizable and the prosecution may be at the instance of any. In the case of marital offences, the trial should be in camera and the names of the parties ought not be given out to the public.

19. We have no answer to give.

20. Our association is of opinion that legislation is required both for the fixing of higher age of consent and fixing an age of marriage. The remedies are not alternative but supplementary and both are necessary to bring about the objects which the legislature has in view. If it decides upon preventing early consummation of marriages, public opinion at present is not prepared for raising the age of marriage to any high degree, especially amongst the orthodox section and as the prejudices of that section cannot altogether be ignored, however unreasonable they may be, expediency requires that a lesser age of marriage and higher age of consent have to be simultaneously prescribed. At the present moment public opinion is fairly united that the age of marriage may be fixed at 14 and that the age of consent may be fixed at 16 in the case of marital state. Both remedies are therefore in our opinion needed.

21. Social reform can only progress if aided in its wake by the strengthening of the penal law. Social reform is always in advance of social legislation. But it is impossible to make any social progress if there is no backing by the state. All those ideas which have so far permeated the masses have to become fairly common among them. The work of the social reformer is of a pioneer character. He gives expression to new views and spends a long time in propagating those views. When they have become fairly common, the legislature has to step in and strengthen his hands by enacting his ideas into necessary legislation. On the other hand, if the state were to sit with folded hands and desire that the social reformer should convert not the majority of the public but the entire population without a single exception and were to state that that is a most desirable thing, it can only be said that it is utopian and will never be achieved. My association therefore feels that wherever the social reformer has made sufficient progress, legislation is necessary and the State must come to the rescue and enact that legislation.

Written Statement, dated the 2nd September 1926, of Mr. P. SRINIVASACHARIAR, Retired Deputy Collector, Saidapet.

1. No. But there is a general feeling among the people that the age of consent for consummation of marriage may be raised.

2. No circumstances.

(2) Immaturity of the girls aged 13 or 14, both physically and intellectually to understand the significance of the object to which they are supposed to give their consent, from which serious consequences are likely to follow, consequences involving the degeneration of the community as a whole by the large mortality of children, emaciated girl-mothers, and the weak and altogether effeminate offsprings of an early consummation.

3. No. No appreciable change. No answer necessary in the face of my answers to the earlier parts of this question.

4. (1) Yes.

(2) Yes.

(3) No. Primarily legislation and also popular education are necessary to raise the marriageable age of girls.

5. About 12 or 13. It is a little higher among the non-Brahmins.

6. (1) No.

(2) Yes.

(3) Not recently, since legislation and the agitation of the educated ladies seem to have had their effect on the popular mind.

So far as I am aware, none of these cases have come to the court.

7. Religion prohibits consummation of marriage before puberty, but there is no restriction after the girl has attained puberty.

8. Yes. The Garbhada ceremony is performed as part of the consummation ceremony. The two functions take place only after puberty.

9. No. The attainment of puberty is only a stage in the physical development of a girl. At best it can only mark the commencement of her physical development for purposes of child-bearing and motherhood.

10. After the 14th year.

11. There have been cases where cohabitation was attempted before puberty. Age of girl about 10 and injury to the vaginal walls.

It is difficult to give other details, as, it was nearly 20 years ago that I committed such cases.

12. Yes.

13. There is enormous public opinion for raising the age of consent still higher. It is a general opinion.

14. Not the educated women nor those who have been made to understand the defects of early consummation.

15. No difficulties.

16. Yes.

17. Yes. The present punishment may be retained in the case of extra-marital offences. In the case of marital offences a fine or simple imprisonment for a maximum period of six months may be imposed.

18. The summons-case procedure may be followed for the marital offence.

19. Great caution should be exercised in taking and sifting the evidence.

20. Legislation fixing a higher age of consent would only reduce maternal and infantile mortality and prevent the degeneration of the progeny. A legislation fixing a minimum age of marriage is primarily to prevent early widowhood. Thus both the legislations are immediately necessary.

21. Both are essential.

The minimum age for marriage mainly affects the Brahmin class. Religion and Shastras enjoin that the marriage of girls should be completed before puberty. Marriage after puberty would make the parties outcastes. Legislation should as far as possible conform to these sanctions. In olden days girls of 5-6 used to be got married. But in recent years owing to financial difficulties, difficulties in the selection of bridegrooms, and other causes, marriage is postponed till near puberty, and as a result girls are seen attaining puberty a few days or months after their marriage. Since the custom has thus changed from 5 or 6 years to 12 or 13 years, there would be no harm in raising by means of legislation the marriageable age of girls to 11 or 12. Among the non-Brahmins it is a different matter. They generally attain age later than the Brahmins. Their marriages, usually followed by consummation on the same day, are performed about the 15th or 16th age of the bride. The suggested legislation is not therefore likely to affect them. Among the Brahmins the consummation of the marriage may be fixed after 14 at present, and gradually raised to 16.

Written Statement, dated the 31st August 1928, of M. R. Ry. Raj Sahib G. SANKARA RAO GARU, Government Pensioner, Cuddapah.

1—2. In the case of husband and wife no one cares for law. It does not therefore matter, whether the existing law is retained or whether an advance is made. The latter will be as ineffectual as the former is at present.

3. No.

4. (1-3) No.

It will thus be seen that matters are where they were.

5. Twelve to 14 years. In rare cases 11 years. No difference between communities in this respect.

6. (1) In rare cases this happens. Where the husband is of ripe age and also impatient he does not scruple to cohabit with a wife who has not attained maturity, especially when both happen to live in the same house. I have also heard that there is a superstitious belief among some females that cohabitation on an auspicious day before puberty will ward off any evil that may result if puberty takes place later on an inauspicious day. In such cases the elderly females arrange for the husband and the immature wife taking bed together. Such cases must be taken as extremely rare and as done without the knowledge of the male head of the family.

(2) This is common though not frequent. Consummation of marriage within 16 days of the girl's puberty is believed to be very good, and all considerations of good and bad days are dispensed with, if the nuptial takes place within 16 days. When the husband is aged and the wife is the second, third, fourth or fifth wife the 16 day rule is most commonly applied for a day's delay for the old man is a day's advance in age.

(3) Age is not taken into consideration at all. 1 and 2 apply irrespective of the age of the girl.

In my opinion legislation is not useful. Where the husband, the wife, and the parents of both agree, the law can be evaded without any difficulty. In the first place no one will complain. Secondly, the age of the girl may be given as 13 or 14 and there will be no means of verifying the statement, especially in the present condition of the birth records. Where there is disagreement between the girl's parents and her husband but the girl is on her husband's side prosecution may take place; but the sympathies of the public are in favour of the couple. No wife will like her husband being sent to jail whatever may be the state of law. The only remedy seems to be education, good environment, cultivation of character, and development of public opinion which at present, is practically non-existent in such cases. The wonder is that educated people are not immune from weakness in this regard.

7. I am not versed in Sastras but I am told that a period of sixteen days after what is called puberty at first and menstruation later is the period within which sexual intercourse between husband and wife is permissible; and that such intercourse is prohibited after the 16th day. It is also understood that the above rule was framed on the assumption that puberty occurs at 16 and that puberty before 16 is attributable to disease.

This probably accounts for the 16 days practice already referred to. To my knowledge there is no sanction for intercourse before puberty.

8. It is usually performed. The first sexual intercourse is after the performance of the ceremony. The ceremony is done in the day time and on the same night at the prescribed auspicious moment the intercourse takes place. This is the rule. But the rule is evaded or ignored in rare cases. Where the husband and wife who has attained puberty happen to live in the same house they have resort to coupling and sometimes the girl may even become pregnant. When the fact of intercourse having taken place comes to the notice of parents, they hurry the formal celebration of the Garbhadana ceremony. It will thus be seen that among the Brahman community in this part of country the performance of ceremony is the rule and the evasion of it, the exception. It is performed after puberty. The question how soon after puberty it is done depends upon circumstances, where the husband happens to be very young the nuptial is postponed for 3 or 4 years. The same is the case where the husband wants to wait until his studies are completed. In ordinary cases however the nuptial takes place within one year of puberty and occasionally between 1 and 2 years. In cases of postponement, the girl's parents' anxieties are great.

10. Realization of consequences depends upon education and not age.

11. I cannot give details, but I have often noticed girls rendered weak and liable to sickness with reduced power of resistance owing I believe to early consummation of marriage and even consumption at the very early age of 13.

12. Yes.

13. No.

14. Yes.

15. Unless and until registration of births is rendered compulsory and omission made penal in all parts of the country and proper steps are taken for the preservation intact of birth records it is very difficult to ascertain the exact age of any person. Cases are known where birth registers are tampered with.

17—18. I have already stated that legislation is of no practical use in marital cases.

20. Public opinion has not asserted itself in this matter in this part of the country.

21. Already answered.

Written Statement, dated the 29th September 1928, of Mr. M. A. MUTHIAH CHETTY, B.A., Madras.

1. There is an appreciable section of the public who are dissatisfied with the state of the law as to the Age of Consent as contained in sections 375 and 376 of the Indian Penal Code.

2. (2) An advance on the present law is absolutely necessary. The law, as it is, permits early parenthood without a full realization of the responsibilities of married life. The physical degeneracy and its inevitable reactions are in my opinion directly traceable to the pernicious social customs.

4. (1) There is a general tendency observable among all communities to postpone the consummation of marriage, though the marriage itself takes place among certain communities like the Brahmin community before 13.

(2) The amendment of 1925 has had some effect in awakening public opinion to a certain extent in favour of raising the Age of Consent to 13. The awakening was not, however, sufficiently strong and one feels that public opinion has not asserted itself.

(3) So far as my experience goes, I should think that among all except the Brahmin and some other communities, marriage takes place only after 13.

5. The usual age at which girls attain puberty in Southern India is about the 13th year. The age differs; girls of the labouring classes generally attain puberty at a later stage than those of the other classes.

6. (1) Cohabitation before puberty is practically unknown.

(2) There have been some very rare cases of cohabitation soon after puberty.

7. I do not believe that early consummation of marriage is ordained by religion. Granting that a religion sanctions such a practice, common sense and Nature's laws must be deemed to be superior to any religious sanction however time-honoured it may be. No measure of social reform has ever been passed without the cry of "religion in danger". Even among the Brahmins there have been and are marriages after puberty but the parties will not give public expression; post-puberty marriages are becoming less and less uncommon.

8. "Garbhadan" ceremony is generally performed in these parts. In the case of the Brahmins and some communities it coincides with the consummation of marriage. In some communities it is performed immediately after the attainment of puberty, if the girl is already married.

9. I do not think that the attainment of puberty is a sufficient indication of physical maturity to justify consummation of marriage. So far as South India is concerned, the age of 16 or 3 years after puberty may be considered to be enough to justify consummation of marriage without injury to her own health and that of her progeny.

10. I am afraid that a girl in India would not be competent to give an intelligent consent to cohabitation with a due realization of its consequences until she is 16 or even 17.

12. Please see answer to question No. 2 (2).

13. Since the amendment of 1925, there has been further development of public opinion in favour of an extension of the Age of Consent. Curiously enough, orthodoxy is more vociferous. Educated women strongly favour the raising of the Age of Consent to 16.

14. Women generally do favour early consummation; only educated women try to put it off as late as possible.

17. I would separate extra-marital and marital offences into different offences. Punishments for extra-marital offences must be deterrent in character; those for marital offences must be comparatively mild such as a heavy fine and a severe warning.

18. I would certainly make a difference in the procedure of trials. These trials should be conducted in camera; the names of the victims should not be disclosed to the public and the proceedings should not be published in newspapers in view of the irreparable harm which such a step is likely to cause to the victims.

20. I am inclined to think that legislation fixing the minimum marriageable age at 16 will be more effective than penal legislation fixing a higher Age of Consent for marital cases.

21. Primarily I would rely on the progress of social reform by means of education and social propaganda but I will use all available means to secure the object, including the strengthening of the law for the purpose.

Written Statement, dated the 14th September 1925, of Mr. A. RAMASWAMY SASTRI, Retired Sub-Judge, Conjeevaram.

1. There is dissatisfaction with the state of the law regarding the Age of Consent, no doubt, particularly among the educated people, though a minority taking the population as a whole.

2. It is time an advance was made on the present law. It is well-known from a medical point of view that the age of 13 now sought to be fixed is too low, as in the majority of cases the physical development of the bodies of girls is exceedingly poor. The reason therefor may be due to their mothers having given them birth at a very immature age and to the consequent want of natural vitality in them. The cause for this state of things may be also due to the mal-nutrition consequent on the economic struggle which has largely prevailed in the country for many years past without any apparent probability of things bettering for years to come.

3. I cannot speak with knowledge on this question.

4. I do not think that it is the raising of the age within the marital state to 13 years that has, if at all, helped to put off the marriage or its consummation. Putting off of marriage or its consummation is largely due to economic conditions, the financial unpreparedness of either party to the marriage to meet the expenditure and the large prices demanded by bridegrooms and the inability of the parents to pay them. Many marriages even among the higher castes have taken place at even beyond 14 years of age.

5. Girls attain puberty at generally 13 and 14 years of age and rather infrequently, below 12 and above 14. The age for the consummation must be

raised further to make protection more effective. It may be sooner among the higher castes. In rural parts puberty occurs generally later. Much depends upon the environments. It may be said safely that generally among the working classes girls attain puberty at 14 and 15.

6. In no class of people is cohabitation common before puberty, nor very soon after puberty, nor before the girl completes 13 years. There may be cases of cohabitation soon after puberty and before completion of 13 years but not to any very large extent. I do not know of any cases which have gone to Court.

7. I do not attribute the early consummation of marriage at puberty to any religious injunction. In fact I do not think that there is any such injunction and, even if there be any, it is altogether ignored. There is certainly no penalty of any kind, Shastraic or social, for failure of early consummation.

8. The Garbhadan ceremony is usually performed, at any rate, among the higher castes. It is performed always after the attainment of puberty and not before it. On an average the interval after puberty may be about 6 months. In the higher classes it may be even a year or two thereafter, according to circumstances.

9. I do not consider the attainment of puberty as an indication of physical fitness for consummation of marriage. In the interests of the girl's own health and of her progeny an interval of at least 2 years should be allowed.

10. The age of 14 is wholly inadequate for a clear functioning of the mind and should, in my opinion, be raised to at least the age of majority which the law has fixed at the completion of 18 years in extra-marital cases and 16 in marital cases.

Mens Sana in corpore Sano.—A sound mind in a sound body. The body not being sound there can be no sound thinking and a "consent" obtained under such circumstances cannot be called consent. Consent is an act of deliberation in the mind, a weighing of the *pros* and *cons*.

As President of the Hindu Girls' School Union in this town, for over the past 15 years and coming into contact with female children numbering about 235, I am convinced there is something radically wrong with them, either by way of parental conditions or their nurture. It is not possible unless conditions change that their physical growth can improve. It may deteriorate even further.

11. I cannot speak from personal knowledge on this question.

12. Yes. I consider among other reasons early consummation and early maternity responsible for high maternal and high infantile mortality.

13. I do not think that development of public opinion, if any, in favour of extension of the Age of Consent is due to the raising of the age in 1925. My own opinion is that even in urban areas very few people except the educated classes know what the law was on the subject before 1925 or what it is to-day. The villager generally knows practically nothing to have made any advance of his views even among the higher castes. This is due to want of propaganda on the part of Government or of social bodies. Such as exist are heard of only when there is a legislative measure on the anvil.

14. I think women do not favour early consummation of marriage especially as such consummation would mean the removal of the only obstacle to their keeping their daughters longer in their own houses as their sons-in-law would insist on their wives being sent away with them immediately after the consummation. I think that among the youths receiving education in schools there is a reaction against early consummation which acts on their mothers.

15. I have no personal knowledge of cases which have presented difficulties in determining the age of girls but I expect that the maintenance of the registers of births all over the country ought to remove all difficulties. If in rural areas the registration is not satisfactory, better agency may be created with proper checks and provision for the monthly transfer of the

records to the Taluq headquarters, blank registers being issued with clear seals of the issuing office.

16. I do not think the difficulty of determining the age would be materially reduced by the raising of the present age by only one year. 18 years might make a definite improvement in the direction desired. Medical science does not yet afford certain and convincing proof even at 18 years.

17. Yes. I would separate marital and extra-marital cases into different offences. Marital cases under 15 and extra-marital cases under 18 should be made punishable. I would not interfere with the punishment now provided for extra-marital offences. In marital offences the punishment must be only by fines not exceeding Rs. 2,000 according to circumstances. Having regard to the future connubial happiness of the unfortunate girl imprisonment is unthinkable. Imprisonment of the husband would only mean his hatred for the wife, and so widowhood to her, as there is no divorce open to her. Even if any law allowed it to her, no Hindu woman would ordinarily take advantage of such law.

18. I would suggest that both classes of cases *extra* and *intra* marital should be tried *in camera* and the proceedings made not open to reporters of newspapers.

19. I think that the existing safeguards provided under section 561 of the Criminal Procedure Code may be deemed sufficient. Even Sub-Divisional Magistrates of the 1st class may take cognisance of marital offences. The police should not take cognisance of such cases.

20—21. It is easy to say that changes in the custom are being slowly wrought in society and the law need not trespass into social custom. Left to itself society may take many decades for its consciousness to assert itself. A progressive and mild advance will help to quicken the pace of reform. The public has become reconciled to the State's interference by legislation raising the age from 10 to 12 years. The proposal to increase the age to only above 13 and under 14 must be considered very moderate.

There should be an intensive social propaganda and education to awaken the public to a consciousness of the evils of early marriage and the consummation thereof. People in general are not aware of the Bills even now before the Assembly. I make the statement from personal enquiries I have made. Sufficient attention has not been drawn by social organisations to the evils, and such organisations are very few and far between.

I would have legislation both for fixing the age of marriage and for the Age of Consent. Having regard to the obduracy of orthodoxy and the general ignorance which still prevails in the country and the unpreparedness of the public, the legislature will do well to reach the end in view from both sides fixing the marriage at not less than 13 years and the Age of Consent at not less than 15 years of age.

Written Statement, dated the 23rd September 1928, of Mr. K. ACHIYA CHETTY, B.A., B.L., Secretary, Bar Association, Kurnool.

With reference to your communication of the 25th of July 1928, addressed to the President of the Bar Association, Kurnool, I beg to communicate to you herewith a copy of the resolution passed at a meeting of the General Body of the Association held on 13th August 1928.

Extract from the proceedings of a meeting of the General Body of the Bar Association, Kurnool, held on 13th August 1928.

• • • • •

7. (a) Resolved that this Association is of opinion that the Age of Consent as contained in sections 375 and 376 of the Indian Penal Code should be raised to 14 in the case of married girls and 16 in the case of unmarried girls.

(b) Resolved by a majority of 15 to 10 that penal legislation is necessary to fix the minimum marriageable age for girls at 14 years. *

Written Statement, dated the 3rd October 1928, of Rao Bahadur S. ELLAPPA CHETTIAR, Advocate, M.L.C., President, District Board, Salem.

1. No.

2. (2) It is desirable from the medical as well as the moral point of view that the Age of Consent should be raised to sixteen as proposed in Sir Hari Singh Gour's Bill.

3. Seduction and rape are not frequent. The raising of the Age of Consent in 1925 has had no effect one way or the other.

4. The raising of the Age of Consent in 1925 has had the effect of postponing the consummation of marriage.

5. The usual age at which girls attain puberty among the well-to-do classes is 13 or 14 and among the working classes a year later.

6. (1) Cohabitation is not common before puberty.

(2) Soon after puberty it is common among the castes who practise child-marriage the consummation being effected about 6 months after puberty.

(3) Since the raising of the age in 1925, the practice of arranging for consummation before the girl completes 13 years has been given up.

There is no instance of any departures from the above coming to Courts.

7. The practice of early consummation of marriage is not due to any religious injunction. It is merely a custom among certain castes.

8. "Garbhadaan" is usually performed at the time of the consummation of marriage and after puberty.

9. I do not think that the attainment of puberty is a sufficient indication of physical maturity to justify consummation of marriage. 18 years may be safely considered to be the age at which a girl's physical development is enough to justify consummation.

10. 18 years may be considered to be the age at which a girl in India would be able to give an intelligent consent to cohabitation with a due realization of consequences.

11. I have not come across cases in which cohabitation after puberty but before full physical development of a girl resulted in injury to her health or prejudicially affected her pregnancy.

12. Early consummation and early maternity are certainly responsible for high maternal and infantile mortality.

13. The development of public opinion in favour of an extension of the Age of Consent since 1925 is not general but confined to the educated non-Brahmin communities.

14. Women being generally uneducated and apprehending serious consequences in keeping their uneducated daughters unmarried long after puberty favour early consummation of marriage.

15. The offences under sections 375 and 376 are not common as stated above. But, I think, no difficulties can be experienced in determining the age of girls.

16. The raising of the Age of Consent to 14 years would not affect the question of determining the age.

17. I would not differentiate between the two classes of offences and would prescribe the same punishment for both—a maximum of 10 years rigorous imprisonment or with fine or with both.

18. I would not suggest any difference in procedure in the trials of the two classes of cases.

19. No other safeguards than those existing are necessary.

20. Fixing the minimum age of marriage would be more effective than fixing a higher Age of Consent.

21. The strengthening of the penal law is necessary to secure the object in view as the progress of social reform by education and propaganda is bound to be uncertain and very slow.

Written Statement, dated the 2nd September 1925, of Mr. Rao Bahadur M. A. TIRUNARAYANACHARI, B.A., M.L., Advocate, Madras.

As I am pressed for time, I have taken the liberty to give my answers generally to the questions proposed, instead of replying specifically to each question.

I am of opinion that, in the interests of the country and the community, the Age of Consent should be raised to 18 outside, and 16 within, the marital relationship.

As regards the Age of Consent in extra-marital cases, there cannot be much difficulty. Nobody holds, or can hold a brief, for a man who wishes to have illicit sexual intercourse with a girl who is not his wife. The Age of Consent for sexual intercourse in such cases must at the lowest correspond to the age of majority. A minor girl cannot sell or buy an article of insignificant value; but is she to be held capable of understanding the serious consequences of surrendering her body to a stranger? Is she to be held capable of realising how it will affect the whole of her future life—the communication, the loss of reputation, the loss of all chances of marriage, in short the blight and ruin that will follow.

There is more difficulty with regard to the question of marital intercourse. There are, no doubt, certain ancient texts which say that if a marriage is not consummated after puberty, the father of the girl is guilty of the sin of infanticide. But these thousands of years old texts cannot be held to prevent such changes as may be considered necessary in the course of centuries. Evidently, in those days, puberty and maturity of body coincided. Girls attained puberty at the age of sixteen or thereabouts, when the body had fully developed. Now, owing to climatic and other reasons, they attain puberty at the age of 12, before the body has fully developed and before it is able to bear the strain of child-bearing and child-nursing. However, it may be, it is ridiculous to attribute such sanctity to the texts as to forbid all changes that may be imperatively called for in view of the terrible infantile sickness and mortality, the sick and emaciated mothers, the weak progeny in fact, the degenerate race, which are the consequences of a, too early consummation of marriages.

It is noteworthy that among the many castes and communities that inhabit this land, the more hardy and virile races are those exactly in which girls attain puberty later and marriages are consummated later. The same conditions can be observed in areas where the climatic and economic conditions have tended to produce a strong, healthy and robust population. It is interesting also to note how, when a community once strong and robust becomes enervated, we find side by side the earlier puberty and marriage of girls. Without going so far as to assert that the latter is the cause of the former, it is clear that the two art and react upon each other.

At the present day, women are fully alive to the evils of early cohabitation and in fact I believe there are fewer opponents to the reform among them than among men. When Dewan Bahadur T. Rungachariar, C.I.E., waxed eloquent some years ago in the Assembly against the dangers and the inequity of raising the Age of Consent, he candidly admitted that his wife and daughters held views opposed to his own.

I am of opinion that legislation in these matters is quite necessary. Social reform, no doubt, is making some headway but it is very slow. In a vital matter like this, the nation cannot afford to wait until everybody has agreed. Between the men in the van of the reform movement who are prepared to practise what they preach and the orthodox who loudly condemn any reform, there is the large mass of people who while they mentally agree with the reformers yet are too inert to initiate a change themselves but will obey willingly, if the State ordains.

In my opinion, the marital offence is of an essentially different nature from the extra-marital offence. It is illogical to include them both under the common designation of *rape*. The absence of consent is the essence of rape, while the injury to the girl is the essence of the marital offence. The latter (which may be called unlawful intercourse with a wife) should be provided for in a different section with less severe penalties. Provision should be made that no prosecution or investigation for such an offence should take place without the consent of the District Magistrate assisted by two or three leading men and women of the community to which the husband and wife belong.

Written Statement, dated the 21st September 1928, of Kotikannikadhanam Acharya Simhasanathipathi Panditha Bhushanam Vidwan Mr. M. KUMARA THATHACHARIAR, Panditha Parishad, Secretary of Conjeevaram.

1. Yes.

2. The law should be altered. Instead of fixing the age at 13 or 14, the sexual intercourse should be penal, the wife not having attained puberty. The Dharma Shastras enjoin a ceremony called Ritu-Santi only after the girl attains puberty; and it is only after Ritu-Santi that consummation is allowed. So no consummation is allowed before puberty.

3. No.

4. (3) It is not the age of 13 or 14 that is considered but the girls' fitness after puberty has been the criterion for allowing consummation. By fitness, I mean, the girls' attaining puberty in the natural and healthy course, not sporadic or unhealthy courses; the course should be Rogaja.

5. In the hot countries of this Presidency, the girl generally attains age between 11 and 12. In poorer families, it is even 10 and 11, among Brahmins, but where plenty of nourishing food is taken and in non-Brahmin families, the age of puberty is generally above 14.

6. (i) No.

(ii) Not generally, but where men marry a girl in second marriage, there are cases of consummation soon after puberty.

(iii) No consummation before she is fit as above explained. The age of 13 is not the criterion.

7. No religious injunction except that when the girl is fit and desires consummation, the same should not be prevented and the defaulters are said to commit a heinous sin, which requires prayaschittam. Quote.

8. The Goana ceremony of mantric consummation is done invariably in all cases of pre-puberty marriage amongst Brahmins. The Garbhadan ceremony takes place only during consummation after the puberty of the girl when she is fit and healthy.

9. If the girl attained puberty in a healthy state and has regular monthly-courses, the puberty is a sufficient indication of fitness of the girl for consummation.

10. As above indicated, the girl is fit for giving consent when she has regular and healthy courses the age is in no case the criterion.

11. The sufficient development of the girl is always indicated by the regularity of the periods of the girl and general state of her health, regardless of the age. When she is fit that way, there have been no cases where her health had been injured by consummation; but there are cases of bad health to girls if she has consummation when she was sickly with frequent and rapid occurrence of unhealthy menstrual discharges.

12. No, not the early consummation nor early maturity; but consummation when she is not "fit" and when, undisciplined excesses have been resorted to, consummation has caused injury.

13. Amongst the Brahmins practically in the whole of South India, the opinion is that no interference of any law by Government is necessary for fixing the marital cases and the Act of 1925 or any other Act is not known to many nor wanted. The Dharma and Niti Shastras enjoin that no ruler should interfere in social and religious matters and the consequences of such interference are also noted therein.

14. Women are very particular to see that consummation is effected as soon as they know that the girls are fit, healthy and longing for union with husbands and they never allow consummation if the girl is any way unfit.

15—16. The age question is never the criterion. The fitness of the girl has always been the main point for determining the consummation. The difficulty of finding out ages have never been arrived at to my knowledge.

17—19. No legislation is necessary nor even if there is one, it is not known or is not operative. No other laws regarding marital affairs should be introduced.

20. No legislation penal or permissive should be passed in cases of marriage (age of betrothal) as it is vesting the Shastras which guide the pre-puberty system of marriage obtaining generally in the Brahmin and Vaisya communities.

21. My opinion is that there should be no interference by Government in any form in religious and social matters and it was that assurance of Queen Victoria and her successors that kept the orthodox section of our community free of anxiety. The unfortunate interference or invasion has come about very tangibly during the last ten years after the reforms. We orthodox people have no representations in Councils—none of our religious heads who are authorities in such matters are represented in the Councils to voice their views. Marriage and religion are so intermixed in all proceedings of our community that we are disinclined to have any interference from Government. Marriage with us is an inviolable sacrament and cannot be dictated in any form even by our own Acharyas or Gurus and much less therefore from Government, which is composed of unsympathetic anti-Shastric members of several communities who belittle long-established Shastric codes and customs as obsolete and archaic. If, however, legislation is demanded by the respective communities themselves through their respective religious heads, such as Mathadhipaties, Acharyas or Gurus, then and then only could Government take up, after taking the popular views of the communities concerned, the recommendations and consider Bill or Law. I, as a representative of the orthodox community, protest emphatically against any Government interference and would even ask for the repeal of laws such as the Bills pertaining to marriage, Age of Consent, widow remarriage, inheritance, etc., on lines following the Dharma and Niti Shastras obtaining as sacred documents for the conduct of the Brahmins and Kshatriyas.

I may be permitted to add a few suggestions regarding this enquiry and I am sure it will save the time and trouble of this Committee and give also direct answers to the queries from parties who will be affected by such novel

legislations which may be applicable to contractual or breakable marriages but not to the strictly inviolable sacramental marriages of Brahmins.

Letter, dated the 1st January 1929, from Secretary, All-India Brahmana Mahasabha.

With reference to para. 2 of your letter No. 985-A.C.C., dated 27th November 1928, I have the honour to state that, on a request made by the Trustees of the Sri Parthasarathy Temple, Triplicane, Madras, to make special arrangements under the auspices of the All-India Brahmana Mahasabha (Headquarters, Triplicane, Madras) for the purpose of taking evidence from the orthodox Pandits with reference to the questionnaire framed by your Committee, the regular work of examination of witnesses has already begun and to forward herewith a complete set of answers to the questionnaire given by Kotikannikadanam Acharyasimhasanapathi Panditabhushanam Vidwan Kumaratatacharya Swamikal (1st witness orally examined). In this connection I would like to append also herewith a summary of the evidence as I am afraid that the members (including yourself) of the Committee may not have the time and even the patience enough to go through the minute details as brought out in the answers.

A Summary of the answers to the questionnaire of the Age of Consent Committee by Kotikannikadanam Acharyasimhasanapathi Panditabhushanam Vidwan Kumaratatacharya Swamikal of Conjeevaram.

The Dharmashastras of the orthodox Hindus recognise that the right age of a girl, in all normal cases, is the age when she attains puberty (the appearance of the first menses), which is generally at 11 to 12 years. This age differs in each girl. At this age the girl is physically and mentally fit for sexual intercourse. The tests of this fitness are: (1) (physically) the attainment of puberty (the appearance of the first menses), i.e., when the girl is said to have attained the development of sex organ, and (2) (mentally) desire for sexual intercourse. On this basis of nature, the Garbhadaṇa Samskara (consummation marriage) is performed soon after puberty. To escape the effects of the non-observance of this ceremony at the proper time (i.e., after puberty) only the ceremonial part of the same (called the Gaona ceremony) is performed in advance on the fourth day of the marriage ceremony.

There are no crimes of seduction or rape in these parts, and no cases have till now come to Court. The cause of high infantile and maternal mortality is mainly due to poverty and want of discipline in eating and sexing. These evils can be prevented by wide propaganda work in the press and on the platform with reference to the Shastric rules of conduct in eating and sexing. According to the Dharma Shastras each girl has to lead a marital life and marriage is a religious sacrament. Therefore the Government and the Legislature should not interfere in religious and socio-religious matters. Therefore, in marital cases, the law should say that the Courts have no jurisdiction.

Throughout the Bharatavarsha there is much dissatisfaction as to the present state of the law of the Age of Consent because the age therein fixed is arbitrarily so fixed—a thing which is quite against the Dharma Shashtra which (by taking nature as its guide) fixes the age of the girl as the age of puberty (the first appearance of the menses). The present law and the proposed change have really effected the introduction of "birth-control" methods which are unhealthy, immoral and unshastraic, obviously to evade the law. For universal satisfaction, instead of the specified age now found in the rape sections, the expression "has not attained puberty—the first appearance of the menses" should be introduced, the portions of the sections regarding marital cases should be expunged and birth-control methods should

be penalised. The proposed change is directly interfering with the orthodox Hindu religion and as per the Government of India Act it was not lawful for the Assembly to have introduced the Age of Consent Bill affecting the religion and religious rites and usages of any class of British subjects in India. The action of the Governor General in according permission to the member of the Assembly who wanted to introduce the Age of Consent Bill to introduce the same is *ultra vires* in the face of the Royal Proclamation. Therefore, for the safety and the tranquility of the Government and the people the Government and Legislature should adopt a policy of perfect neutrality and non-interference in religious and socio-religious matters.

Answers to the questionnaire of the Age of Consent Committee as the result of the oral evidence taken after due examination under the auspices of the All-India Brahmana Mahasabha (Madras) from Kotikannikadanam Acharya Simhasanapathi Panditabhushanam Vidwan Kumaratatacharya Swamigal of Conjeevaram on 9th, 10th, 11th and 12th December 1928, at Gangaikondan Mandapam, Triplicane, Madras.

AGE OF CONSENT BILL.

Under the auspices of the All-India Brahmana Mahasabha, special arrangements were made to examine orally Kotikannikadanam Acharya Simhasanapathi Panditabhushanam Vidwan Kumaratatacharya Swamigal of Conjeevaram on the lines of the questionnaire formulated by the Age of Consent Committee, on the 9th, 10th, 11th and 12th December 1928, at Sri Gangaikondan Mandapam, of the Sri Parthasarathi Swami Sannidhi, Triplicane, Madras. This was in accordance with the wishes of the Committee as intimated in their reply No. 985-A.C.C., dated 27th November 1928, to the letter addressed by Sri Man V. Parthasarathi Aiyengar, B.A., B.L., Attorney-at-Law, and Trustee (Dharmakartha) of the Sri Parthasarathi Temple, Triplicane, Madras. On all the four days, the examination was conducted before large audiences consisting of all shades of opinion. The audiences were also allowed freely to ask supplementary questions to elicit Shastric Pramana (authorities) for the purpose of upholding the orthodox views regarding the Age of Consent of Girls. The questions were answered by the learned Vidwan in Tamil when the questions of the questionnaire were interpreted to him into Tamil. Great enthusiasm prevailed on all the four days. As these answers have been framed after satisfying the doubts of the questioners of the audience, they may *de facto* be considered to reflect the views of the whole assembly.

M. M. ANANTA ROW.

Secretary.

Answers.

1. There is much dissatisfaction with the state of the law as to the Age of Consent as contained in sections 375 and 376 of the Indian Penal Code amongst the orthodox Hindu community. The sections of the Indian Penal Code treat about the offence of rape and punishment for rape. The age for marital cases has been arbitrarily fixed at 12 for punishment with transportation for life or with imprisonment of either description for a term which may extend to ten years and also liability to fine or with both and at 13 for punishment with imprisonment of either description for a term which may extend to two years or with fine or with both. An act of sexual intercourse is made into an offence of rape under the sections. According to the Hindu Dharma Shastras sexual intercourse is shastrically enjoined when,—

- (a) soon after the attainment of the puberty (the appearance of the first menses) of a girl, the Garbhadana Samakara (the ceremony for consummation) is celebrated as the result of a girl's fitness physically and mentally for sexual intercourse:

- (b) during the Ruthukala (during the interval of any two menses periods) when she has a desire for sexual intercourse.

The act of sexual intercourse is clearly prohibited in the Dharma Shastras before a girl attained puberty (the first appearance of the menses). But when a girl attained puberty (the first appearance of the menses), the Dharma Shastras were careful enough to distinguish two kinds of girls on the puberty basis (the basis of the first appearance of the menses):—

- (1) The Rogaja girls—those girls who possessed a strong desire for sexual intercourse on attaining puberty (the first appearance of the menses), and
- (2) The Rogaja girls—those girls who possessed some kind or other of disease (constitutional sexual infirmity or otherwise) and as a consequence thereof they did not possess any desire for sexual intercourse at all on attaining puberty (the first appearance of the menses).

For girls of the first kind, the Dharma Shastras enjoin that Garbhadana Sanskara (ceremony of consummation) must be performed soon after the appearance of the first menses. For girls of the second kind they enjoin that the ceremony may be postponed till such time when they become fit in body and in mind. It is a matter for common experience that the age of puberty (i.e., when the first menses appear) is different in different girls. It is dependent on various causes:—(1) Internal and (2) External. *Internal Causes.*—They are physiological, morphological, biological, psychological, pathological, telepathic and sympathetic. *External Causes.*—They are Associative, Climatic and Environmental. Some girls attain puberty (the age when the first menses appear) as early as 11 years and some as late as 18 or 19 years. Generally in a place like the Bharatvarsha (India) of comparatively hotter climate than that of most European countries, the age of puberty (the appearance of the first menses) ranges from 11 to 12. In the case of the Rogaja girls who attain puberty at such an early age (earlier than 18), the Dharma Shastras enjoin that Garbhadana Sanskara should be performed immediately after the appearance of the first menses, fixing a good—auspicious—day so as to give the girl the full opportunity of satisfying her sexual appetite which is only—

“the legitimate gratification of a natural instinct—an instinct more imperious than any other except hunger” (Sir P. S. Sivaswami Aiyer).

It would be quite against the Dharma Shastras and from the humanitarian standpoint most cruel to impose by legislation a penalty upon her husband for his mere act of sexual intercourse with his legitimate wife only with the *bond fide* intention of satisfying her natural and legitimate craving. On the other hand, it would be quite impossible for her to go against her natural instinct as it would be certainly quite against the Dharma Shastras by self-inflicted restraint to remain quiet till she attained the age arbitrarily (as opposed to nature) ordained by Government legislation. The arbitrary fixing of an age cannot at all be the criterion for the fitness or otherwise of a girl to give consent, when, as a matter of experience, nature has not provided a uniform age for all the girls; while, on the other hand, the ages range from 11 to 18 or 19. The age of puberty (the appearance of the first menses for each girl) must be the real basis or criterion for the rape sections and in them instead of specifying any particular age, if the expression “when she has not attained puberty—the appearance of the first menses”, is used in all places where a specific age is mentioned, the state of the law as to the Age of Consent as the result of the modification above suggested would pass universal acceptance by all communities and classes, castes and creeds. For universal satisfaction, the law as to the Age of Consent as contained in sections 375 and 376 of the Indian Penal Code may be changed as follows:—

Section 375, Indian Penal Code, Rape.—A man is said to commit “rape” who, except in the case hereinafter excepted, has sexual intercourse with a

woman under circumstances falling under any of the five following descriptions:—

First—Against her will;

Secondly—Without her consent;

Thirdly—With her consent, when her consent has been obtained by putting her in fear of death or of hurt;

Fourthly—With her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married; or

With her consent, when either she or he or both knowing fully that the act of sexual intercourse, though for sexual enjoyment, is calculated to prevent progeny;

Fifthly—With or without her consent, when she (is under fourteen years of age) *has not attained puberty—the first appearance of the menses.*

Explanation.—Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

Exception.—Sexual intercourse by a man with his own wife (the wife not being under thirteen years of age) is not rape.

Section 376—Punishment for rape.—Whoever commits rape shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine (unless the woman raped is his own wife and is not under twelve years of age, in which case he shall be punished with imprisonment of either description for a term which may extend to two years, or with fine or with both).

The proposed section 376-A in italics—not required.

In the above suggested modification the portions within brackets must be expunged and italicised portions must be introduced.

In the fourth description of Section 375 some modification has been suggested. It is for the purpose of making Birth Control Methods which are dangerous to health and morals as offences under this section when sexual intercourse is restored to with the help of such methods. The Dharmasastras have clearly deprecated such methods as homicidal in their nature as it would be very clear from the following:—

Of late a lot of activity has been manifested in connection with the enormous growth of population. While on the one hand there is a loud cry among social reformers that the rate of maternal and infantile mortality is very high, I am surprised to find that this much stated phenomenon has not in any way affected the increase of population so as to necessitate a solution in finding out a way to maintain the normal strength of the population to the required extent. From the way in which these two types of propagandists work, it can at once be made out that the attributive causes for which one set of propagandists work do not seem in any way related to the attributive causes for which the other set of propagandists works.

“Birth control”, as an expression in itself, seems to suggest the ways and means by means of which birth is controlled. These new propaganda have not in any way laid out in unequivocal terms what these means and methods are. So far from what the propagandists have stated, I understand “Birth Control” to mean the control over the birth as the result of the appliances of contraceptives. A boy and a girl may have sexual enjoyment to whatever extent both of them may desire to have as a legitimate gratification of a natural instinct, but this felicity should not result in difficulties due to frequent labour at very small intervals and in difficulties due to increase in population, such as unemployment and other economic difficulties. For this purpose the advocates of birth control have till now openly come out with their method of contraception which would prevent the formation of foetus. The Dharma Shastras have laid down that this method is homicidal. The method amounts to killing life even at the initial stage by impregnating semen

into a female organ and disorganising it by the contraceptive appliances. The effects of this method of birth control are:—

- (1) loss of vitality in both the parties;
- (2) interference with the natural course of functional activity of a sex organ—

a thing which may lead to all kinds of sex diseases and even to a derangement of the sex-function of the female organ. It will result in the loss of vitality in the present generation and weaken the future generation. Our Dharmasastras have laid out most wonderful birth-control methods which are in perfect accord with the physical, the moral, the mental and the spiritual development of humanity. "Birth Control" according to Dharma Shastras is "Sex-Control". It consists in—

- (1) Mentally—Mind Control (Chittavrittinirodhaha);
- (2) Physically—Control of Organs of Action (Karmendriyanigrahaha);
- (3) Physico-mentally—Control of the senses (Indriyanigrahaha).

The above (1) is achieved by Mind Purification (Chittasudhi) by the Nithya and Neimithhikakarmas (daily and occasional duties) as enjoined upon by the Dharma Shastras; and High Thinking—Spiritual Contemplation and Contemplation of God (Bhagavatmananam) and the Cultivation of the Calmness of Mind (Manoshanti). The above (2) and (3) are achieved by (a) Aharaniyamas (Rules of Conduct regarding Hunger and Thirst) and (b) Viharaniyamas (Rules of Conduct regarding Sex Appetite). Regarding (a) Shastras enjoin Mithahara (Moderation in food taking) and Satvika Ahara (plain and simple food). Regarding (b) Shastras enjoin sexual intercourse at proper times based upon Thithi (the lunar day), Vars (the Solar day) and Nakshatra (the stellar day) and the Punya and Parvakalas (the Auspicious days). Sexual intercourse is prohibited during menses and during the period of manifest pregnancy. It is also enjoined in the Dharma Shastras that the couple should not sleep together except for the sake of sexual intercourse on the days permitted by the Shastras.

In short, the Dharma Shastras have for each action of man (here the expression "man" includes "woman" also) a proper—

- (1) time during which it ought to be done;
- (2) place at which it ought to be done;
- (3) mode with which it ought to be done;
- (4) the right party or parties concerned, who only ought to take part in it. Here action includes—
 - (a) action in thought;
 - (b) action in word; and
 - (c) action in deed.

Man (including woman) should never be without proper action; otherwise the danger is Satan would find some mischief for idle hands to do. Therefore, our Dharma Shastras contain all those things which will bring about—

- (1) good; and
- (2) happiness of man.

Again, I may say that it is against the Dharma Shastras to effect sexual intercourse by force, against will or consent of either of the parties or by any other influence than by natural love and affection between the two parties enjoying it, and the sections of the Indian Penal Code suggested for modification in the manner indicated above would, in their modified form as suggested, be quite in conformity with the letter as well as the spirit of the Dharma Shastras. I need not even hesitate in saying that the sections in their modified form as suggested above should be accepted universally by all as consistent with the dictates of nature which are the real and correct test for the welfare and happiness of humanity.

It must be distinctly understood that the Age of Consent for a girl is the age when the girl is physically and mentally fit for sexual intercourse, and consummation and child-bearing as the result of it. According to the Dharma Shastras there are two tests for this fitness:—

- (1) Desire for sexual intercourse, and
- (2) Attainment of puberty as the result of the appearance of the first menses.

In nature, it is a recognised fact, that hunger, thirst, sexual appetite, etc., are natural cravings. They appear in their natural course as feelings arising in the physical system, due to lack of functional activity when the organism has assumed its functional perfection. The feeling arising out of this creates in the being (male or female) a desire to satisfy the natural craving, viz., to assume the functional activity. Thus the true functional activity of sex in a girl as soon as the appearance of the first menses begins. Nature herself is very careful here. She cannot permit seminal impregnation to take effect if the functional activity is not in a stage fit for consummation and child-bearing. A human being, despite his intelligence and wisdom, may err; but nature cannot in all her workings. For sexual pleasure and enjoyment penetration for sexual intercourse might take place even attended with seminal impregnation. The ovum can assume the state of fertility only when it is fit for foetal formation and when the womb is fit for child-bearing. This is the true cosmic process for pleasure, happiness and health, and it is natural. Any interference with the natural order of things would be certainly productive of great danger and serious consequences. On account of various causes and circumstances, the Age of Consent (i.e., the age at which the girl has attained puberty or in whom the first menses have appeared) determined in the manner described above, is, as is known to everyone, different in different girls. It would certainly be against the natural order of things to fix arbitrarily by law an age which would be applicable universally to all the girls of British India and the British Dominions wherein the Indian Penal Code is in force. Such a legislation would give rise to the following serious consequences:—

Supposing the Age of Consent is fixed at any particular age, as the result of arbitrariness or otherwise, without having in it any element in the puberty criterion, there would in fact be very few girls whose puberty age may coincide with that ordained by law. And in the case of all other girls the following two types of cases would naturally arise:—

(1) Legal recognition of a right for penetration and sexual intercourse between the Age of Consent as ordained by law and the age of the actual attainment of puberty of the girl with the consent and will of both the parties. In this case law cannot take cognisance of an act of penetration or sexual intercourse before puberty, because it has no puberty basis in the case of girls who actually attain puberty after the age so ordained by law. In the case of the boy, the loss of vitality will surely weaken his system and thereby undermine his health. In the case of the girl, her sex organ being subject before maturity to irritation, conscious or unconscious, may seriously become affected in its functional activity, resulting in sexual diseases and affecting the vitality and health of the girl and her future progeny.

(2) Legal restraint on penetration and on sexual intercourse for sexual enjoyment—a natural birthright of every boy and girl in the legitimate gratification of a natural appetite or instinct more imperious than any other except hunger—between the age of puberty or the appearance of the first menses in a girl and the age as ordained by law. Such a restraint would have very serious consequences which would be a menace to public health and public morality. The legal restraint, though it does not physically prevent a boy and a girl in doing the act of penetration and sexual intercourse, will surely exert its influence in the penalty for the disobedience of the law. Penetration and sexual intercourse as the result of a natural appetite for sexual enjoyment generally goes undetected. But the detection would only consist in external appearance of certain signs which would give

a clue to the act of penetration and sexual intercourse having been done at an age prohibited by law. The external appearance of signs consists in pregnancy and childbirth. To prevent such a detection the so-called "birth-control" methods of prostitution would be resorted to. The birth control methods seem to me to be those which begin from the stage of artificial methods of satisfying the sexual appetite by fluid discharges without actual penetration or sexual intercourse and end in the stage of infanticide.

The Great Law-givers (the Sastrakaras) when they codified the law of conduct—the Dharma Shastras, always adopted the lines on which nature invulnerably followed and so their codes stand for all time, for all climes and for all people and require no modification or correction slips as in the case of Government Publications. These Law-givers even went to the extent of an agreement between the mental and the physical natures. The mental nature for the sex idea, they determined as the desire or aversion for penetration and sexual intercourse. The physical nature for sex differentiation they determined as the time of the first menstruation of the girl. The mental and the physical natures sometimes developed unequally, i.e., the mental nature for the sex idea sometimes developed quicker (owing to various influences and circumstances) than their physical nature for sex differentiation. This often resulted in the girl in a desire to have sexual intercourse before puberty (the first appearance of the menses). The mental nature for the sex idea sometimes followed in its development the physical nature for sex differentiation. This often resulted in an aversion in the girl for sexual intercourse though her sex organ was quite fit for seminal impregnation, to accept fertilisation and to allow child-bearing. The law-givers recognised that right penetration and right sexual intercourse consisted in the act which could satisfy all the following conditions:—

- (1) Desire in *both* the parties to have penetration and sexual intercourse;
- (2) the pleasure as the effect of the act to the mind and the body of both the parties; and
- (3) The fitness of the sexual organs of both the parties for penetration and sexual intercourse.

(NOTE.—The fitness of the female sex organ is its condition after the first appearance of the menses and the fitness of the male organ is its condition when it can discharge normal semen.) It is only when all these three conditions are completely fulfilled that penetration or sexual intercourse can be said to occupy its right place in the sexual relation between a boy and a girl. Mere arbitrary fixing of an age by legislation would, in the light of the above facts, be *primâ facie* absurd. The rape sections, no doubt, require change, and the right change would be in the direction suggested above.)

I may here in a serious attitude sound a note of warning to the Government and the Legislature. Any action taken by Government or by the Legislature which is calculative of interfering with the religion or religious rites and usages of any class of British Subjects in India will be highly resented at by the classes of British Subjects affected by such an action. The seriousness of the consequences of such an action would all the more become complicated and dangerous if the affected class of British Subjects are forced by law under pain of penalty to flagrantly disobey their religion or religious rites and usages observed from time immemorial. The Government and the Legislature are fully aware of the Great Queen Victoria's Proclamation ratified again and again which runs as follows:—

"We do strictly charge and enjoin on all those who may be in authority to abstain from all interference with the religious beliefs or worship of our subjects on pain of our highest displeasure."

The arbitrary fixing of the Age of Consent which will, in many cases, interfere with the Garbhadana Samakara of the orthodox Hindus (particularly of the orthodox Brahmans) would be a flagrant interference with the religious usages of a class of British Subjects in India—the orthodox Hindus amongst

whom this religious ceremony prevails and any legislature as the result of this would be unlawful as per the Government of India Act and if the Governor General should exercise the power given to him by the Act in according permission for such a piece of legislation, his action would be *ultra vires* because it would be in contravention of the Royal Proclamation which has vouchsafed to every British Subject the policy of the British Government of non-interference with the religious beliefs and worship of the subjects of the British Empire. Therefore, it is the bounden duty of the Government as well as the Legislature which constitutes a part and parcel of that Government either to exempt the affected classes of British Subjects or expunge from the Statute Book such of those clauses which are objectionable as interfering directly or indirectly with the religion or the religious rites and usages of such classes of British Subjects. The effect of the interference by Government and the Legislature with the religion or religious rites and usages of any class of British Subjects in India would certainly be serious and of a far-reaching nature. In order to ensure the safety and tranquillity of the Government and the people respectively, the Government and the Legislature will be well-advised if it will do well to scrupulously adopt a policy of perfect neutrality and non-interference in regard to the religion or the religious usages or rites of any class of British Subjects in India.

2. There are no circumstances which, in my opinion, justify retaining the law of the Age of Consent as it is. But there are circumstances (*vide* answer to question No. 1) which, in my opinion, justify making an advance on the present law. The right and the safest advance would be towards the suggested modifications of the rape sections as given in answer to question No. 1 above.

3. So far as I am aware, there are no crimes of seduction or rape in my part of the country in regard to the Brahmana community. Neither do I know of the fact that in regard to the Brahmana community the amendment of the law made in 1925 raising the Age of Consent to 14 years succeeded in preventing or reducing cases of rape outside the marital state or the improper seduction of girls for immoral purposes. To make the law effective I would propose—

- (1) the amendment of the law as suggested in the answer to question No. 1, and
- (2) to make the amended law as suggested in the answer to question No. 1 as effective as possible, I would propose propaganda work in the press and on the platform on the Rules of Conduct pertaining to Sex as laid out in the Shastras.

4. The amendment of 1925 has had no influence upon the orthodox Hindus so far as I know of. Things go on as usual amongst the orthodox Hindus according to the injunctions laid down in the Shastras, both as regards the Vivahasamskara (marriage ceremony) and Garbhadana Samskara (consummation ceremony). On the other hand I am inclined to believe that the law of the Age of Consent seems to have stimulated public opinion in a wrong direction. It is towards the adoption of "birth control" methods and wide propaganda in respect to these. The aim of the propagandists seems to be to secure sexual enjoyment for the couple but at the same time to prevent conception taking place so as to be outside the pale of detection by law if sexual enjoyment should take place during the period of the prohibited age of the girl. But such methods are quite unnatural and against the Dharma Shastras and dangerous to health. But the law instead of protecting the girls against cohabitation with husbands has brought about unnatural methods which would protect boys and girls who, for sexual enjoyment, will have cohabitation with each other and at the same time pass the detection of the law.

The law is not, therefore, effective towards achieving a good result. If at all there should be a law for an offence regarding sexual intercourse, it must achieve a good result. I would, therefore, propose to have the rape sections in the modified form as suggested in the answer to question No. 1. I would again reiterate here in saying that nature is always and the only safe guide

in regard to questions concerning sexual intercourse and no amount of the arbitrary fixing of the Age of Consent would do any good to the girls. The proposed change will surely have the unhealthy influence of giving support to artificial methods such as "birth control" methods which are, after all, a legalised form of self-abuse.

5. In my part of the country the usual age at which girls attain puberty is 11 to 12 years generally. The age of puberty differs in different castes, communities or classes of society.

6. Regarding 6 (1) there are no cases, to my knowledge, of cohabitation before puberty. Regarding 6 (2), in the case of marriages of girls given in first marriage, cohabitation is not common, but in the case of marriages of girls given in second marriage, in some cases cohabitation begins soon after puberty. But regarding the completed age of 13 given in 6 (3), the age of the girl has not at all been taken as the guide for cohabitation according to the Dharma Shastras; but the first appearance of the menses of the girl is always taken as the right and Shastric guide. And in all cases of cohabitation, the girl is allowed to have it only after she attained her puberty (the first appearance of the menses) and only after the Garbhadana Samskara is performed.

To my knowledge, there have been till now no cases of girls and boys having been brought to Court as the result of cohabitation before puberty, soon after puberty or before the girl completed 13 years.

7. To my knowledge, there is no practice prevalent in my part of the country of the Garbhadana Samskara (ceremony for consummation) before puberty. On the other hand, Shastras nowhere enjoin such a practice. If it does exist anywhere else, I should say that it is quite against the Shastras. But on the fourth day of the Vivaha Samskara there is a ceremony called the Gauna Samskara ceremony performed. In this ceremony some Mantras which are also chanted on the occasion of the Garbhadana Samskara are chanted on this day also. The ceremony consists merely in the chanting of the Mantras and has only its ceremonial value. The real purpose of this ceremonial utterance is only for a preparatory defence against any possible violation of Vratas (religious observances) and the Mula Garbhadana Samskara (the full ceremony for consummation) that the married couple are enjoined to observe prior to sexual intercourse. This ceremonial utterance is sometimes mistaken by superficial unlearned critics as—

(1) being a permissive ceremonial for sexual intercourse before puberty;
or

(2) being indicative of the intention of the Shastrakaras as enjoining the Vivaha Samskara after puberty.

The meaning of the expression "the practice of the early consummation of marriage at puberty" is not clear. To thrust some intelligent meaning into it I must at best interpret it as "after puberty". The letter as well as the spirit of the Shastras are that soon after puberty, taking into consideration the general health of the couple, their fitness for sexual intercourse and the auspiciousness of the time of the first menstruation, the Garbhadana ceremony is performed.

Vide Appendix for authorities.

Those authorities consider the acts of violation of the Shastric injunctions as very heinous.

Vide Appendix for authorities.

For those people who severely repent after such violation the Shastras prescribe penalties for the expiation of the sins as the result of such violation and the penalties are Prayashchittams (certain expiatory ceremonies).

8. In my part of the country some perform Gauna ceremony and some do not. In the case of those who are the followers of Aswalayana Sutra, they do not follow the Gauna ceremony at all.

In my part of the country, Garbhadana ceremony is performed by all the Vaidikas in addition to the Gauna ceremony. But in the case of Laukikas

some of those who perform the Gaona ceremony do also perform the Garbhadana ceremony and some others do not.

The Gaona ceremony is performed on the fourth day of the Vivaha Samskara ceremony and before puberty (when the girl first becomes a Rathamathi). The Garbhadana ceremony is performed soon after the girl attains puberty (i.e., the first appearance of the menses). It is only after this ceremony that the boy and the girl are allowed to have sexual intercourse for consummation. It is only when the health of the girl, the inauspiciousness of the occasion when puberty was attained by the girl and other factors are taken into consideration that the Garbhadana ceremony is postponed to such time when as soon again the couple would become fit for sexual intercourse on a proper day or when the prohibited duration due to inauspiciousness is over.

9. In all normal cases, I do consider that the attainment of puberty is a sufficient indication of maturity to justify consummation of marriage. I am not able to understand what is meant by "physical maturity". If that expression means "physical maturity of the body of the girl as a whole taken into consideration" then the age when this would be accomplished would be somewhere between 16 and 18 years and certainly a girl cannot be expected to wait till such an age for sexual intercourse. If the expression "physical maturity" means the physical maturity of the sex organ of the girl, I would say that on the appearance of the first menses of the girl, in all normal cases, the sex organ will always be found to be physically mature. In such a case as this nature is our guide. Nature has afforded all the safeguards towards the safety of the girl. Even with the appearance of the first menses, only in very few cases, a girl need not be said to possess a physically mature sex organ. In such a case as this nature would not allow fertilisation to take place in the ovum when seminal impregnation is allowed to take place after penetration or sexual intercourse, if the sex organ of the girl is not physically mature. Therefore, we should not confuse "physical development" of the body of the girl as a whole with the physical development of the sex organ of the girl. To state that the former case is not the criterion, I know of cases wherein girls were very strong in general build but whose sex organs were not normally strong to the extent necessary for consummation, and in such cases, though the Garbhadana Samskara was performed and free sexual intercourse was allowed, the seminal impregnation has had no effect so as to result in consummation because the sex organ of such girls was not physically mature owing to abnormal causes such as sexual diseases, etc. Therefore the right criterion of a girl's fitness for consummation is not directly dependent upon the physical maturity of the body of the girl as a whole, but it is the physical maturity of the sex organ of the girl which is the right criterion for the fitness or otherwise of the girl for consummation and I should say in all normal cases, even at the first appearance of the menses a girl is said to possess a physically mature sex organ. If at this time she is allowed to have seminal impregnation by penetration and sexual intercourse after the Garbhadana Samskara is performed, certainly, as does the sun rise in the east, her ovum will at once act after fertilisation by seminal impregnation and conception would at once take place. No amount of State legislation by an arbitrary fixing of the age would in any way modify Nature's invulnerable behaviour and her working with reference to man (including woman).

A question would arise as to whether, in all normal cases, the sex organ of a girl becomes physically mature on the appearance of the first menses. That this is so, the Dharma Shāstras are very clear on this point. They state that generally at the completed age of nine from birth (or at the completed age of ten from the time of conception) the sexual (physical and mental) nature of the girl begins to manifest itself. During her ninth year she is considered to be a Kanya (a girl). On the completion of the ninth year after birth or tenth year after consummation she becomes a Rajaswala (a girl who begins to manifest in herself the sexual emotions mentally and she begins to feel the differentiation in sex physically in the appearance

gradually of hair in certain parts of her body and the gradual growth of her mamillary protuberances). The manifestation of this sexual nature is indicative of the beginnings of the growth of her sex organ from the hitherto undeveloped (physically immature) condition. The period of development of the sex organ is different in different girls. But, in all normal cases, the period of development of the sex organ of the girl from the beginning of the Rajaswala state ends in the physical maturity of the sex organ at the time of the first *Ruthu*—the first appearance of the menses. Therefore, I would say with certainty that at the time of the appearance of the first menses (the first *Ruthu*) of the girl, the sex organ, in all normal cases, would be fully physically mature irrespective of the fact whether the body of the girl as a whole is physically mature or not. At this age of the girl, when she is considered to have attained real puberty (I would use this expression in the sense of "maturity") the physical development of her sex organ can be safely considered to be enough to justify such consummation immediately without injury to her own health and that of her progeny. In all normal cases, such girls would be considered as *Rogaja* girls, i.e., girls when they attain the first *Ruthu* (the first appearance of the menses) they immediately evince a desire for sexual intercourse. The *Dharma Shastras* clearly state that in all such cases such girls should be allowed to have free sexual intercourse at once with their husband after the immediate performance of the *Garbhadana Samskara* (ceremony for consummation).

In all normal cases, therefore, the *Garbhadana Samskara* and permission for sexual intercourse cannot be postponed. If postponed, it is indirect contravention of the *Dharma Shastras*.

10. In an orthodox Hindu home girls even long before they are married have intelligence enough to understand the result of cohabitation and its consequences. They generally come to know of this in the case of their mothers, sisters and other lady relations, friends and acquaintances who give birth to children. Apart from that they are not prevented by the elderly women in hearing when the latter are engaged in talks about child-birth, pangs of labour, etc. In normal cases, an orthodox Hindu girl is therefore quite competent to give an intelligent consent to cohabitation with a due realization of its consequences.

11. In the first place I must admit that I am not a professional man but an orthodox *Vidwan* who has studied all the *Shastras* including the *Vaidya Shastras*.

I have till now not come across cases of cohabitation before puberty. Regarding cases of cohabitation after puberty all cases of cohabitation have been, to my knowledge, only after the *Garbhadana Samskara* was performed. A girl was not allowed to cohabit before the ceremony. But the *Garbhadana Samskara* is only performed in cases where the girl is normally healthy and she attains her puberty—her first appearance of the menses. But I know of some stray cases of girls who, after puberty, though they were unhealthy, had cohabitation with their husbands which resulted in injury to their health or body or prejudicially affected her progeny. I may specifically state that cohabitation at any (even very advanced) age after puberty, when the health of the girl is not normal, did result in injury to her health. But I cannot understand what is meant by "full physical development". If it really means full development of the girl in body as a whole, she would attain this stage only between 16 and 18 years. From the time of the first appearance of the menses till this age of 16 to 18 years girls, having normal health have had cohabitation many a time, and in the case of such girls I have not till now come across cases wherein such cohabitations had in any way resulted in injury to their health or body or prejudicially affected their progeny.

12. I do not consider early consummation and early maternity responsible for high maternal and infantile mortality or for any other results vitally affecting the intellectual or physical progress of the people. The real causes of high maternal and infantile mortality are quite different. They are mainly due to poverty, and as the result of this, underfeeding, bad-housing, lack of expert help and advice during pregnancy, and delivery and lack of

expert help and advice till the baby attains proper age and want of careful and expert nursing and tending of babies. Again the modern relaxation as opposed to the discipline in eating and sexing is to a great extent responsible for the present physical, mental and moral deterioration.

If the girl is not healthy, the Dharma Shastras say that the Garbhadana Samskara can be postponed, till when she becomes healthy. In stray cases owing to early consummation and early maternity in the case of unhealthy girls, such early consummation and early maternity have resulted in maternal and infantile mortality. But I am not aware of any cases wherein early consummation and early maternity even in the case of unhealthy girls have vitally affected the intellectual progress of the people. Amongst the Brahmana community there are innumerable cases of early consummation and early maternity as the result of the following of the injunctions of the Dharma Shastras and still the Brahmana community has been considered to be of superior intellectual calibre, and I also know the average Brahmana of the village is physically hale and strong. The physical deterioration of Brahmanas in towns is due to the evils of town life and not to early consummation and early maternity.

13. So far as orthodox Hindus in general and orthodox Brahmanas in particular are considered there has been in no way any development of public opinion in my part of the country beyond that formed from those injunctions which are laid down by the Dharma Shastras even after the amendment of the law in 1925 in marital cases, as I am only concerned with marital cases. I am not concerned with the extra-marital cases because such cases remain outside the purview of the Dharma Shastras which require that every Dwija girl must be married.

14. All those women, who belong to orthodox families who scrupulously follow the injunctions as laid down by the Dharma Shastras, do favour early consummation of marriage for their children. Others may not.

15. Am not able to say whether any difficulties have been experienced in determining the age of girls in connection with offences under sections 375 and 376 of the Indian Penal Code as, to my knowledge, no case has come till now to a Court of law.

When a rape offence of the nature suggested in answer to question No. 1 has come under the cognisance of law the difficulties in determining the age of girls can be removed or minimised only when the present rape sections are modified in the manner suggested in my answer to question No. 1 and not otherwise, wherein the first appearance of the menses is taken as the Age of Consent.

16. All difficulties will vanish if puberty (first appearance of the menses) is considered the real Age of Consent of the girl for the purpose of the rape offence, vide my suggestion in answer to question No. 1.

17. I would certainly separate extra-marital and marital offences into different offences. In marital cases, I feel that the State should not interfere and punish at all. In non-marital cases, the existing punishment will do.

18. In marital cases I suggest that the Court should say it has no jurisdiction. In non-marital cases the existing procedure would do.

19. In marital cases I should suggest that the State should not interfere by legislation. In non-marital cases the State may legislate in whatever way it pleases.

20. In marital cases, I would consider that no legislation, penal or permissive, should be made. As marriage is a religious sacrament among the Hindus, the State should not interfere in matter of religion, or religious and social usages, the protection of which has been vouchsafed to us by the Proclamations of successive sovereigns, in unequivocal terms, by an explicit pronouncement for adopting a policy of non-intervention by Government (including in it the Legislature) in religion or religious usages or social usages of any class of British Subjects in India. In my part of the country orthodox Hindus entertain a public opinion quite in consonance with the above view.

21. In marital cases, I would prefer that the State should not interfere by way of penal or permissive legislation. In non-marital cases, it may do anything it likes. I am a staunch social reformer in the true sense but my social reform is towards all those invaluable Rules of Conduct which are contained in the Dharma Shastras when any unconscious departure is made from this. Social work must always be done by education and social propaganda. As religious and socio-religious matters are things which are inviolable there should be no interference by Government in any form in religious and socio-religious matters and it was that assurance of Queen Victoria and her successors that kept the orthodox section of our community free from anxiety. The unfortunate interference with or invasion on our religious rights has come about very tangibly during the last ten years after the reforms. We orthodox people have no representation in the Councils—none of our religious heads who are authorities in such matters are represented in the Councils of Government to voice forth their views. Marriage and religion are so intermixed in all the proceedings of our community that we are quite disinclined to have any interference from Government. Marriage with us is an inviolable sacrament and the injunctions about the same cannot be changed even by our own Acharyas or Gurus and much less by Government, which is composed of unsympathetic anti-shastric members of several communities holding heterogeneous religious beliefs, who have been always making it a point to belittle our long-established Shastric codes and customs as obsolete and archaic. If, however, legislation is demanded by the respective communities themselves through their respective religious heads and Acharyas, such as the Matadhipathis, Acharyas or the Gurus, then and then only could Government take up into consideration the popular voice of the communities concerned and their recommendations and then enact legislation in the manner specified. I, as a representative of the orthodox Hindu community, protest emphatically against any kind of Government interference and would even ask for the repeal of all existing laws which directly or indirectly aim at such interference. Our law is the Dharma Shastras and the Nithi Shastras in all the religious and socio-religious matters. The fact that the so-called social reformers are now trying to seek the aid of penal legislation to force down the throats of the unwilling orthodox public all those ways of life which are subversive of all their religious beliefs and religious and social usages proves conclusively the real hollowness of their case. If, however, ever they should feel that there was real strength in their arguments, even now we have no objection for their coming out into the public and meeting us in argument and we are quite prepared to meet them. The dissatisfaction which the large majority of orthodox Hindus are entertaining even at the State appointment of a committee to enquire into these fundamental matters of life and death will certainly develop into disobedience if there should be any forced legislation and is likely to influence their views of loyalty to the representatives of the King who permit such a legislation. In short I protest against even a welcome social reform by State legislation for the power once obtained is likely to be abused at any time.

M. M. ANANTA RAU.

Secretary of the

All-India Brahmana Mahasabha.

The above statement, read to-day (30th December 1928) at the General Body of the Mahasabha, is mine and I do hereby accept the same in toto.

(Sd.) M. KUMARATATACHARYA.

(Sd.) N. SUBRAMANIA AIYER, M.A.,
Retired Dewan Prishkar of Trivandrum.

N.

President of Meeting.

30th December 1928.

**Written Statement of Mr. K. R. PADURAMATHA PILLAI,
Bar.-at-Law, Madras.**

* 1. There is dissatisfaction among the intelligent and thinking section of the public.

2. An advance is necessary because the last raising of the Age of Consent has had practically no effect in protecting the girls or in other ways fulfilling the intentions of the legislature when the age was raised.

3. Crimes of rape and seduction are not very common in this part of the country. But the law is practically ignored in the case of married persons. The remedies are fixing a minimum age for marriage, raising the Age of Consent in the case of married girls to the same level, and giving deterrent punishment to those who break the law.

4. The change in the law was so slight that it had no appreciable effect in the directions desired by the legislature. The remedies are the same as suggested in reply to questionnaire (8).

5. Usually girls attain puberty in these parts between the ages of 12 and 14 and very rarely at 11. It does not vary among the different castes but varies to a slight extent according to the mode of living of the girl.

6. Cohabitation in case No. (1) is practically nil. But it is common in cases (2) and (3) in the married state. On the west coast post-puberty marriage is the rule among all classes and marriages are rarely contracted or consummated before the age of 16. On the east coast pre-puberty marriage is the rule among the higher castes and consummation takes place soon after puberty.

7. Early marriage or consummation is not due to any religious injunction or belief in the same, but due to the anxiety of parents to get rid of their daughters as soon as possible.

8. I have no first hand knowledge but I understand that this ceremony is performed sometimes soon after the marriage and sometimes soon after puberty.

9. The attainment of puberty is not sufficient indication of maturity as common experience teaches us. A girl is not fit for sexual relations until she is physically and psychologically mature. Puberty does not justify consummation. 16 years is the minimum age at which a girl is fit for sexual intercourse. Ayurveda and kama sastra prohibits sexual intercourse before that age.

10. The age of 16 would be the minimum age.

11. I know of several cases of injuries of a minor nature. I know of one case in which the girl died, another in which a girl was driven mad, and a third in which a girl became a permanent invalid.

12. Maternal and infantile mortality is directly traceable to it. Among several other evils early consummation and maternity practically destroys the "girlhood" of the girl, interferes with female education and stunts the personality of the woman. She ceases to have any interest in life and becomes a mere child-producing machine.

13. Public opinion is certainly not against a progressive change.

14. No. But as stated in the answer to questionnaire (7) parents are generally anxious to get rid of their girls as soon as possible regardless of consequences.

15. Difficulties sometimes crop up; but they can be minimised if the Age of Consent is raised. The difficulty can be eliminated only if the registration of births becomes universal.

16. Not necessarily. But the margin of error will be less if the age is fixed at about 16.

17. There is no need to separate the two classes of offences. If separation is necessary, I think heavier punishment should be inflicted in the

marital cases, as such cases are far more numerous than extra-marital cases and also because temptations and opportunities are more in the marital state and consequently punishment should be more deterrent. Even if the Age of Consent is less in extra-marital cases, it should be at least 16 in the marital state, as early marriage and maternity affects not only the individuals, as in extra-marital cases, but also have a deleterious effect on the progeny as well as on the family system and national well-being as a whole. In either case a fairly long period of imprisonment is a desideratum.

18. There is no need to make any difference in procedure between the two classes of cases. If protection against extortion and blackmail is necessary, the protection is necessary in all cases to prevent injustice.

19. No special safeguards will be effective. The only remedy against oppression and extortion is to make the Courts more vigilant and also improve the tone of the Police force and the prosecuting agency.

20. Yes, I do. But I think that both remedies may be applied. Intelligent public opinion will support either remedy or both.

21. It is essential to strengthen the penal law over and above education and propaganda. Education and propaganda alone cannot eliminate selfishness from human nature, and the evils of early marriage, early consummation and its attendant evils are mainly the result of selfishness on the part of the parents and sometimes of the husband and often of both. The penal law should be strengthened, and the punishment should be deterrent, otherwise it will defeat its object. The Age of Consent may be raised to 16 for both boys and girls and the age of marriage fixed at 16 for girls and 24 for boys. The punishment need not be vindictive but should be sufficiently deterrent, and so should not in any case be less than that provided for simple hurt under Section 323 of the Indian Penal Code.

**Written Statement, dated the 20th November 1928, of Mr. D.
MOONGILAL AGARWALA, Sowcarpet, Madras.**

I think it would not be out of place, if I beg to submit the prevailing view of Marwari community in connection with the marriage system. In the Marwari community, I find there consist of two parties, one belonging to the progressive social reformers (called as Sudarak) and the other strictly adhering to the traditional system of marriage, who are called the Sanatanist. The former considers the necessity of legislation whereas the latter put opposition of such legislation strongly.

I have heard that in Bikanir, many marriages take place of girls between the age of 5 and 7 years old among a certain section of Brahmin community which is attributed purely due to traditional system said to be in continuous for a very long number of years. Recently the Maharaja of Bikanir (Rajputana) has passed an Act for preventing such early marriages and the same will come into operation shortly.

I find that the general view of the Marwari community (excepting to a few) including of social reformers is that the marriage of a girl should be finished before the attainment of 12 years of age. They strictly oppose the consummating of any marriage after the attainment of puberty. Some even want to finish the marriage at the age of 11. After finishing the marriage of a girl before the 12th year, her parent sending to her husband house for living, after an elapse of one or two years, with dowry (and such marriage is called nuptial marriage). I presume that one of the reason of prevailing the system of early marriage may be attributed partly due to the pressure of wives who being illiterate and secondly the traditional system which is adhered strictly. When a marriage is to take place in a family house, generally the opinion of wives is taken, so if girls are educated to some extent, I think, there may be great help towards the progress in social

matters, so my personal view is that it is necessary to make progress among girls for imparting an elementary knowledge of education and more especially the educating of important principles of hygiene and health rules.

I am glad to say that for the past few years many a change has taken place and keen interest is being evinced by the Marwari community in discussing social matters by holding meetings and conferences, etc. The practice of early marriage is being condemned and passed resolutions for consummating a marriage of a girl between 11 and 12 years of age with a bridegroom of 16 years old. This was not the case some years ago. They have begun to condemn the marriage of a girl with an old bridegroom of 45 years of old or so.

No doubt, it is said by the authority of Ayurvedic medical books that the proper age for marriage of a girl is after 14 years of old but this rule is not observed. The reason is this. It is said that a true Sanatanist of a Hindu religion is he who observes and strictly follows the injunctions of Smritis and Shastras, therefore regard is being given to Smritis, etc., rather than of Ayurvedic medical books. It is pointed out that Smritis like Manu and Parasar, say that no parent should allow to pass beyond the age of 12 years for a girl for marriage and no marriage should be done after puberty. If such laws are disobeyed, they are considered as committing the greatest sin.

There is also a question for consideration whether there can be such kind of legislation by State. In this connection the point for consideration is that in India among Hindus, there can be found a large number of people all over India—not in a particular community—or country but in all sections of Hindus—holding the different views and customs in connection with marriage system, among which a large proportion of people will be of following the different traditional custom in their respective communities, so there is every likelihood of facing a lot of inconveniences and troubles, thereby which may have a tendency of unpopularity of Government. Any legislation made by State shall always be of punishment for offending parties and for such powers are to be vested in the hands of police and I seriously doubt that the public may not face inconveniences, troubles, litigations, etc., thereby. It is my personal view that any work done by the means of propaganda and educative policy will always be healthy in the interest of State and public, whereas legislation in matters like social reforms is likely to be taken seriously by the public. Because at the same time the other point for consideration is that in a vast population like India, there may be found defective social custom one or other and it is beyond my comprehension that at each and every time the resorting of legislation for the purpose of reforming social defectives will be of great popular among the public.

As I myself belong to Marwari community, I have sent this for information and as I do not possess any qualification or competency as to express any opinion on such a vital question affecting at large, I humbly request you will kindly excuse me for mistakes that have been made by me.

Written Statement of Mr. G. S. R. (an orthodox Brahmin).

As per your statement in your committee meeting on Saturday that the opinions of those, who cannot give oral evidence before you, will be carefully considered even if sent written by them. I pen the following for your perusal and request that it may be read out.

I totally agree with Dewan Bahadur T. R. Ramachandra Iyer's statement (written). In our Presidency, the law cannot be totally effective by any measure whatsoever. I strongly oppose those who attribute infantile mortality to child-marriage and early consummation. According to our Brastra rules a girl shall be married only when the parents (who alone her best well-wishers better than anybody—nay even the Government) think

they ought to marry her. Generally she will be between her 11th and 13th years during her marriage time. The nuptials shall be celebrated, say our Sastras, 1 or 14 years after the girl attains her puberty which can be declared to take place between the 13th and 14th years on an average; so much so the girl will be about 15 or 16 by the time she is to be consummated—a fitting time, I hope. There must be no restriction to the age of marriage; for, who knows our pits and falls be better than ourselves in risking early marriages. I earnestly request the Committee on behalf of myself and my orthodox community not to interfere with religious matters and age-long customs.

Written Statement, dated the 24th November 1928, of Mr. K. K. POKKER, Advocate, Madras.

As civilisation and progress are bringing various changes both in Politics and Social matters there is abundant desire evident both among the educated Hindus and Muslims to alter the present position of women with regard to the Age of Consent and marriage. Several conferences held by women from time to time have passed resolutions to this effect. Many of them have recommended the Age of Consent to be raised to 18 and age of marriage to be 16. I am distinctly of opinion that girls married before they attain their puberty are generally physical wrecks and children produced thereby generally die. There is some dissatisfaction in regard to the existing law on the Age of Consent. There are certain circumstances which justify an advance on the present law. In this connection it may be said here, with regard to Muslims that a large number of them feel that there ought to be certain raising both in the Age of Consent and marriage. But the difficulty is this. Religion has sanctioned marriage to be taking place even at an earlier age. But as a rule Mohammedan girls are generally married between 13 and 14 and their consummation takes place two or three years later. This is the invariable practice followed even by Moplas in Malabar. The first stage is what is called *Nikah*, i.e., the religious part of it and the consummation are *Iktikah* takes place only after the girl attains puberty. Before the consummation the girl and the boy are not allowed to see each other or cohabit. But in rare cases there are marriages between girls and boys of comparatively younger age. However I am of opinion that any Penal Legislation passed would be regarded by Muslims as an interference with their religion.

Any step in this direction could be taken very cautiously and gradually and this can be done by giving proper education to the people. The amendment of 1925 raising the Age of Consent within marital state to 13 has been somewhat effective in protecting girls by postponing the consummation marriage to some extent and giving some enlightenment to the public opinion. But I do not think it has been in any way effective in putting off marriage beyond 13. Educating public opinion generally and giving female education particularly would make it more effective. There has been a development of public opinion in favour of extending the Age of Consent marital and extra-marital cases since 1925. To ensure an honest registration of births, particularly of girls, I would suggest that local Panchayats, Municipalities and other local bodies be given more powers and be under the strict control of the Government. Cohabitation is not common in this part of the country either before puberty or soon after or before girl completes thirteen. I do not remember any such cases coming into Court. I do not think that attainment of puberty alone will justify consummation of marriage. But it also depends upon the physical development of the girls. I believe that after girls complete their 16th year of age a consent given by such girls for cohabitation would be taken as an intelligent one. I know several instances where cohabitation before puberty has resulted in untold miseries and injuries to both the girls and their husbands. I feel that early consummation and maternity are responsible for high maternal and infantile mortality and

to a very great extent making the children produced quite useless and devoid of average human intelligence. It must also be said that poor economic conditions such as bad housings, scant food and want of pure air are also contributory causes for the high percentage of the infantile mortality. I would separate extra-marital and marital offences into different classes. I would suggest a slight fine only for breaking the laws relating to marriage. After sometime some other devices either Penal or Educative could be used if this fails. I would also make it a condition precedent that either of the District Magistrate or any other Officer concerned should give a report of the breach of any such law before the actual prosecution is launched. This is only a safeguard to avoid mischievous and malicious prosecution. I regard Penal Legislation fixing a higher Age of Consent for marital offences would be more effective than fixing minimum of age for marriage. Marriage is regarded by Hindus and Muslims as a sacrament and any attempt to stop it would be resented. I would also suggest to have separate marital Court where trial might be conducted *in camera*. My own personal view is that instead of resorting to any legislation this work could be carried on by means of education and social propaganda so that the bulk of the people may be rid of the suspicion and distrust that the Government is unnecessarily interfering in their religion. Gradual propaganda by means of lectures, distribution of literature would be more impressive and effective, and the people will appreciate it and they themselves would demand a legislation.

Written Statement, dated the 24th November 1928, of Mr. N. E. DURAISWAMY IYENGAR, The Sanatanist Office and Brahma Sayuja Library Manager, Madras.

I request permission to bring to your kind consideration the following points, which a large number of conservative people including myself feel at our hearts.

If the Government should pass a Bill to the effect that marriages shall be celebrated only after the age of 15 or 16 years, or its consummation shall be done only after 2 or 3 years after attaining puberty, the following dangers are anticipated.

Say, There is a 'matured girl unmarried. She, as it may often take place, loses her virginity by yielding to the amorous calls of impetuous male youths, who also abound in our world now-a-days. She becomes pregnant. Her acts of privacy get to broad day-light somehow or other, as such things would quite often. For this wrong conduct on her part at a time when she is not able to distinguish good from bad, nobody will consent to marry her; and she will have to lose the opportunity of leading a household life by settling as a wife. To such a family the tie of relationship will be cut off by one and all.

Moreover the problem of maintenance should vex her most. Even her paramours, who were so solicitous for her little favours of love, forsake her; for often they get settled in life finding their wives and homes and have neither means nor inclination to care or recollect their old loves and caresses.

To the problem of maintenance becomes a question to resolved in her case.

There is no *Prayaschitta* for sins committed intentionally, except in some cases due to Kala, Deea and Vartamana. Only till 12 years, parents are responsible for the sins of their sons and daughters according to our Shastras; but here, the age of sinning is 14, 15 or 16; and the parents are quite ignorant of the lustful machinations of their daughters and sons.

You may bring forward a view that such late marriages may result in healthy generation. But that is something which our common experience does not guarantee at all; for, we have been seeing all these centuries quite healthy and robust and strong generations resulting from very early con-

summations. The few cases of degenerate families you may have in view cannot compare with degenerate families of late married communities. So, there ought to be different causes for the cases under consideration, not at all early consummation.

For all that however, the moral objections previously pointed out, the fear of corruption and disease consequent upon it must weigh more in our minds than any other consideration. I therefore appeal to you, Sir, to think deeply and dispassionately over the matter. If you should still think the Bill desirable, we pray that the same may not be made applicable to this Presidency at any rate.

**Written Statement, dated the 29th November 1928, of Shams-ul-Ulama.
Lisan-ul-Hikmath, Moulvi M. A. R. SHATIR Sahib Bahadur,
Persian and Hindustani Translator to Government, Madras.**

With reference to your No. 915-A. C. C., I have the honour to submit my brief opinion as follows:—

As early marriages are not, at all, common among the Mohammadians and as in cases where expediency suggests them to resort to such marriages they do not, as a rule, send the bride to her husband's house before puberty, it is decidedly better, in my opinion, to leave the matter of Age of Consent to the growing scientific culture among the Mohammadians than have recourse to legislation fixing a higher Age of Consent of marital cases and give them room to interpret it as an interference with their religion.

The age at which a particular girl may be considered fit for cohabitation would depend on physiological causes and climatic conditions. It is the moral duty of parents and husbands to examine them and look to the welfare of the bride, and Government as Government need not necessarily take it upon itself.

If Governments were to assume parental responsibilities many moral and social evils would claim priority.

**Written Statement of Mr. Yidwan G. J. SOMĀYAJI, M.A., L.T.,
Secretary, Teachers' Association, M. H. School, Adoni.**

I hereby beg to present the following memorandum before the "Age of Consent Committee", with reference to the question of raising the Age of Consent in India, in the interests of the Indian Nation.

I propose to lay before the Honourable Members of the Committee that the age of marriage of girls may safely be raised to sixteen under the present circumstances and adduce the following reasons.

1. It is an admitted fact that early marriages are an important cause of the degeneration of Indians as a race.

2. The raising of the marriageable age of girls automatically raises the age of marriage of men also. Thus the country will have a number of young and unmarried men who can venture upon new and fruitful walks of life. They think of marriage only after they are successfully settled in life. Family is often an obstruction in the way of ambitious young men thinking of going to foreign countries.

3. The raising of the marriageable age also brings down the number of married men who cannot maintain their families because a father always likes to give his grown-up daughter to a man who is already settled in life.

4. The education of girls will have ample scope for improvement.

5. Girls can choose their own husbands and a love marriage has certainly a number of advantages more than a child-marriage which may result in incompatibilities.

6. The dowry system that is weighing down a number of communities will certainly disappear.

7. The number of child widows will decrease.

8. The astras which are supposed to be against the idea of marriage after puberty show a lot of evidence in favour of late marriages and a number of instances can be cited from *Srutis* and *Smarutis*, in the form of *Vaidika Lingas* and *Smaruti Vakyas*. By thus raising the age of marriage Hindu religious injunctions are not violated. Only a custom may be removed.

9. The present law regarding the Age of Consent is not known to anybody and is nowhere observed in practice. Certainly some statutory arrangements have to be made to bring any such law into force. Local committees may be formed for certain areas and every marriage should be registered before a registrar and any marriage that is not properly registered before the concerned authority may be invalidated for legal purposes. In cases of dispute between the party and the officer in charge (preferably the Deputy Collector) the case may be referred to the standing committee formed of a few *ex-officio* and a few elected members.

For submitting any more evidence I am prepared to come in person and give evidence before the commission.

Written Statement of Miss E. LAZARUS, B.A., L.T.

As regards the present law regarding the Age of Consent in India, I am certainly of opinion that it should be altered and fixed at 16 or 17, when the girl mind has been developed to some extent, and from the experience gained from her elders and her own practical experience of life, she is in a good position to judge for herself, and to realize the responsibilities that await her both as a wife and mother.

The reasons why I plead for an advance on the present law are:—

1. It is a crying shame, as I pass on from one Elementary School to another in the enlightened City of Madras, to find little IVth and Vth they will not be permitted to further their studies for another year, because of their coming marriage.

2. We have to face the problem from both aspects the psychological and physiological. The mind which is in its pre-adolescent period is still plastic often very much suggestion fearful and the worse cases embalanced; the girl has had no chance of full reasoning, or determining for herself the natural consequences of these great undertakings that await her. Being a little girl herself, by the time she is in her 15th year she holds her baby in her arms, not knowing how to handle it, feed, clothe and care for it. More often than not there comes the step-mother story and has been related to me by more than one Brahmin of poor means. This important girl wife—may girl mother is the first to rise in the house the last to retire and at night has very broken insufficient sleep due to her pulling and tiny infant at her side.

What chances has this poor child? Her mind which should be on the "Grivoco" or the alert for assimilating new and interesting facts and knowledge has been seriously checked and her main duty is to function and to the demands at her spent energy by the husband and members of the household.

As regards the physiological aspect many learning doctors have stated that no woman should be a mother before 18. I have been very closely moving with hindus maidens and between the ages of 14—18 and I regret very much to state that many whose children have been born before that age have not proved healthy, strong children, but are always ailing and proving a great source of anxiety to the young family.

Comparing this pre-adolescent period of girlhood in India with most European countries, I have visited and steady social and educational subjects it is no credit to our great land to find how seriously handicap we are; while the Europeans have a distinct childhood, girlhood and womanhood period, where in each has full development and functioning of the instincts, play, muscular and thought processes, in India it is a great jump from childhood to womanhood with only an intervening period of a year or two only for girlhood.

4. As regards the amendment of 1925 raising the Age of Consent within the marital state to 13 years I should think that within in another 10 years several influences including the discussions in the press and on the platform on the questions of woman rights and liberties and the women's movements which has been rapidly growing in strength and volume has tended to advance both opinion and practice in these directions. Some definite step should be taken to discountenance child-marriage with an ultimate view to its prohibition.

7. I should think that practice of early consummation is based before local customs and traditions.

9. I am strongly of opinion that no girl under 16 to 17 should embark upon the serious problem of marriage, for being a mere girl herself she is not fit physically and mentally to be an ideal mother.

10. No Indian girl below 17 to 18 is competent to give an intelligent and valid consent to such a serious question.

12. Yes. I certainly do for statistics state so and in our city there is a widow's home where many child widows are studying.

13. I say with full confidence that public opinion to-day will support the increase of the Age of Consent and the raising of the age of marriage as well, and that it will not be confined to certain sections only, but will be general.

14. Generally speaking I do believe in South India our ladies do not favour early consummation of marriage for their children and such an idea will soon disappear for with extension of education and its many advantages especially to the earning girl, marriage will prove more of hinderance than a benefit at the early stage of life.

21. A great amount of work and benefit can be achieved through social reform agencies, education and propaganda but well considered social legislation is essential to consolidate the work and it should be done in a thoughtful and tactful manner without causing hurt and grievance to any section.

Written Statement, dated the 6th November 1928, of Mr. C. V. NAGASUNDRAM IYER, Ex-Educationist, Kandamangalam, South Arcot.

I beg to introduce myself to your kind notice asking to permit me to say what I have to say upon the matter which you are enquiring into. I pray that God would best His Grace upon your deliberations and guide you all in doing the right justice to each community to be affected by your reports.

We, Brahmins, though become accursed now-a-days in the eyes of self-styled wise westerners and of the disciples of the western missionary teachers, yet possess a religion unsurpassed. Our ancestors, the ancient sages in countless numbers saw God and spoke with God and obtained laws from the Most High and revealed them to mankind. Count Leo Tolstoy is wrong when he says that no man hath yet seen God.

In the Biblical Gospels, a man asks Jesus whose wife a woman, would be in heaven after marrying successively seven brothers on their deaths. Such a religion is not ours.

In the Koran, a Muslim who cuts an infidel's head would enjoy in heaven seven damsels with swelling breasts. Ours does abhorrently condemn both the above religions.

I may quote many religions which are highly condemnable in the light of our teachings but space forbids them.

Many wisemen say that there is no connection between religion and social laws which latter consists in eating, drinking and being merry with damsels, often other men's wives and riding in motor cars for pleasure purposes. I would ask, without breach of courtesy, each of you where you were and how you were before birth and where you go after death. If you say that those questions do not concern you and are silly, I regret that you each would be severely affected by that agency whom we prefer to ignore.

According to Burke, Justice is a scrupulous (fearful) cautious, balancing principle, fearful of doing wrong even to the great wrong-doers, etc. In the light of the above, I would ask that justice be done to ours.

According to Professor Sundra Ramier, a European, says that the fiercest rage in all mankind is found only in India. By legislation against the wishes of the Madras orthodox Brahmins, you do the greatest injury to yourself. India would become a constant prey to earthquakes, hurricanes and many other disasters like the countries of the west.

Of course, there are some evils prevalent in our society, but there are nothing compared with those in the western societies.

Among uneducated women among us, children are often asked by women whom they would marry, and a boy or girl is often told to took upon another girl or boy as his wife or husband. This highly pernicious custom induces the sexual element and I have seen many boys and girls before ten mixing together in sexual embrace.

Our sages saw these evils and sought remedy in early marriages. A girl is taught to look upon her husband as a God who should on no account be disregarded or disordered or disobeyed, be a villain, a lunatic, maimed, blind or important. Their betrothal or first marriage puts an indissoluble tie lasting through eternity. A wife chaste according to this light reaches heaven and final bliss some births after, whereas the Biblical seven brothers' wife must take birth in lower animal life owing to her excessive carnality.

If any of you would say "I am wrong", I would ask whether you possess God-vision.

Some say that child-marriages cause early widowhood. I say that widowhood is not caused by child-marriages, but by those child widowers having acted against their husbands in previous births. Adultery, teasing, etc., might have been the cause. If anybody says that widowhood is only a chance happening, I am sure he is a rank atheist who will have the wrath of God upon his head. In this world, nothing happens by chance, the effects of past Karma being shown in astrology which is a science unjustly condemned by materialists.

Marry a girl early, teach her all that she is required to know let those teachings be in the Brahmin centres, by Brahmin women quite orthodox in their views and not by social reform-married widows. There are black sheep in our society.

Supposing the marriage to take place before puberty which custom ought not to be interfered with, the time of consummation may be fixed a year or so after puberty, the fitness for the same being judged by sympathetic lady doctors and the girl or her parents being advised thereto. The impatient husband also must be advised by men doctors against early consummation.

Experience teaches that no boy does his nuptials before sixteen, but seeks satisfaction in self-abuse and ruin themselves. The girl is often the

sufferer. The youth lying with his wife one night finishes his act in one day, whereas the girl conceives, is bellyful with child suffers and dies. This is horrible indeed. The remedy lies not in legislating, but in elderly knowing men sympathetically advising people to postpone consummation.

If the first betrothal be allowed to take place till 12 or so or to 14 or to the day on the eve of puberty, affections for wrong husbands are formed and the result is adultery and all the vices and miseries of western society. The western conquered India and they rule us. Yet the proclamation of Queen Victoria is ringing in our ears.

If a man of 27 and a girl of 12 are married, the girl maturing at 14 and waiting for 2 years for fear of the Court, the girl often would resort to adultery. In that case, the interference of the court would expose her to adultery and ex-communication, but social reformers and missionaries would save them.

Child widowhood is horrible no doubt, but it is the effect of the wrath of God upon man. Social reform may bring her several bliss, while Sodom and Gomorrah destruction would visit them.

There must be a school by orthodox Brahmins to teach all girls religion, religion and religion a hundred* million times, cookery, housekeeping, hygiene physiology, mothercraft, sick-nursing and no combined schools for boys and girls.

In many post-puberty marriages, it has been seen that the girl is often found with big bellies with children but Brahmins do hate them. If all the Brahmins were given a separate world to live in, free from the interference of others whose religion is no religion, it would be better. An aged Jesuit father preaching to the Hindus was asked by me why a man is an Emperor born and another an idiot, and was pleased to reply that he did not come to discuss with me.

Empires, Kingdoms, Governments have come and gone, yet our religion persists and it is perhaps the will of God that it too should go soon.

A father or mother on death bed earnestly wishes that their 9 years old daughter and only daughter sometimes be married before their own death and a marriage be performed, whom would you punish—the dying or surviving parent or the married couple.

Marriage, a happy function, a life-long business, to bring punishment to any, it is simply Draconian law, and the punishers must take birth as eunuchs. There are persons who seeking marriage from their 18th year and yet no wives for them and even after marrying after 50, lose their wives. This is chance you would say, I would prefer to call it Atheism.

Already the custom of paying large sums of money to bridegrooms prevails in many communities including such as do post-puberty marriages. If you would advise legislation fixing 12 for girls, the rush for bridegrooms would be ten times greater and the price of bridegrooms would be unimaginably high. Puberty must have to be suppressed, secret adultery must become rampant, mother suicides and infanticide would become cases of daily occurrence and girls would flock to Christianity or Muslim religion in large numbers. This is another way of Christianising India. Many motherless or fatherless or helpless girls would become brothel keepers and street prostitutes on account of their inability to find husbands. Missionaries again would take them under their kind care.

Social reform marriage is only licensed prostitution, but opinion may differ. There are Brahma or Arya Samajists to do such marriages. A Raja Ram Mohan Roy or Swami Dayanand, Jesus Christ or his Gospel Christian or a Muhammad was unheard of in the times when our sages wrote the Smritis. If at all any legislation be made for orthodox Brahmins of Madras, they may be advised by special committees to celebrate marriages as late as possible. That is all.

Written Statement, dated the 8th January 1929, of Mr. T. R. YENKATARAMA SASTRI, Madras.

I am not sending answers to the questionnaire issued by the Age of Consent Committee, but am only putting down some ideas bearing on the age of marriage and the Age of Consent as in the course of a personal conversation with the President of the Committee at the Madras Servant of India House I promised to do.

2. First, I take up the Age of Consent as of prime importance from the Committee's point of view. I should welcome 14 as the minimum age for consummation of marriage or (to put it in language with which people have now become familiar, however, unhappy it may be) as the Age of Consent within marriage. At some not very distant date the desirability of raising it to 16 may be considered. At present I do not suggest any age above 14 and at no time should I desire to take it beyond 16.

3. Outside the marriage, the Age of Consent may be raised to 16 and there it may remain for all time.

4. I prefer to state my reasons for the opinion expressed in the last two paragraphs in the language of Havelock Ellis:—

"It is generally regarded as desirable that chastity should be preserved until adult age is well established. But as soon as sexual maturity is attained—which is long before what we conventionally regard as the adult age, and earlier in girls than in boys—it is impossible to dismiss the question of personal responsibility. A girl over 16, and still more when she is over 20, is a developed human being on the sexual side; she is capable of seducing as well as of being seduced; she is often more mature than the youth of corresponding age; to instruct her in sexual hygiene, to train her to responsibility, is the proper task of morals. But to treat her as an irresponsible child and to regard the act of interfering with her chastity when her consent has been given, as on a level with an assault on an innocent child merely introduces confusion. It must often be unjust to the male partner in the act; it is always demoralising and degrading to the girl whom it aims at "protecting"; above all, it reduces what ought to be an extremely serious crime to the level of a merely nominal offence when it punishes one of two practically mature persons for engaging with full knowledge and deliberation in an act which, however undesirable, is altogether according to nature. There is here a fatal confusion between a crime and an action which is at the worst morally reprehensible and only properly combated by moral methods.

These objections are not of a purely abstract or theoretical character. They are based on the practical outcome of such enactments. Thus in the State of New York the "Age of Consent" was in former days 13 years. It was advanced to 14 and afterwards to 16. This is the extreme limit to which it may prudently be raised and the New York Society for the Prevention of Cruelty to Children, which had taken the chief part in obtaining these changes in the law, was content to stop at this point. But without seeking the approval of this society, another body, the White Cross and Social Purity League, took the matter in hand, and succeeded in passing an amendment to the law which raised the Age of Consent to 18. What has been the result? The Committee of Fourteen, who are not witnesses hostile to moral legislation, state that "since the amendment went into effect making the Age of Consent 18 years there have been few successful prosecutions. The laws are practically inoperative so far as the age clause is concerned". Juries naturally require clear evidence that a rape has been committed when the case concerns a grown-up girl in the full possession of her faculties, possibly even a clandestine prostitute. Moreover, as rape in the first degree involves the punishment of imprisonment for 30 years, there is a disinclination to convict a man unless the case is a very bad one. One Judge, indeed, has asserted that he will not give any man the full penalty under the present law, so long as he is on the bench. The natural

result of stretching the law to undue limits is to weaken it. Instead of being, as it should be, an extremely serious crime, rape loses in a large proportion of cases the opprobrium, which rightly belongs to it. It is therefore a matter for regret that in some English dominions there is a tendency to raise the "Age of Consent" to an unduly high limit. In New South Wales the Girls Protection Act has placed the Age of Consent at 16 and in the case of offences by guardians, schoolmasters or employers at 17 years, notwithstanding the vigorous opposition of a distinguished medical member of the Legislative Council (the Hon. J. M. Creed), who presented the arguments against so high an age. Not a single prosecution has so far occurred under this Act."

5. Havelock Ellis is not alone in expressing the view that it is much too easily assumed that a girl of 16 is always the victim and never the aggressor and if the Age of Consent is pushed further up the consequence in this as in other countries must be that the courts will be slow to convict or severely punish the supposed offender.

The question of a minimum age for marriage is in some ways connected with the age of consummation. But consummation has a direct bearing on health, while marriage as distinguished from it has not, except indirectly. I say *except indirectly* because it may be said that if marriage takes place early, the tendency will be to lead to consummation at the earliest age after the girl has attained puberty and is deemed fit to give a married life. The age for consummation is fixed at 13 under the law as it stands and if 14 is fixed at the Age of Consent, consummation cannot take place before that age. That is to say, whatever may be the age of marriage, consummation must wait till the girl is 14.

The age for marriage may be fixed at 12. The object of this provision is to prevent widowhood before that age. Sacred law permits of the remarriage of virgin widows and expressly speaks of her and her children as blameless and as fit for matrimonial alliances.

• दूषितापाणिमात्रेण सृते मर्तरि दारिका ।

संस्करंलभतेनारी द्वितीयसायुजःरती ॥

पुनर्भूनाम सा कन्या सपुत्राश्चकव्यदा ।

चदूषासाप्रसूतोषुप्रजानां दारकर्मणि ॥

* (Mahabharata Kumbhakonam Edition, Anushasana Parva, Adhyaya 55, versus 6 and 7.)

Nothing can be more explicit than this passage. But social opinion is so distinctly against the remarriage of even these unfortunates that the legislative validation of remarriage has not operated in their favour in any greater degree than* it has in favour of non-virgin widows. If virgin widow remarriages were favoured by popular sentiment, no minimum age for marriage would be needed, because till 13 or 14 widowhood will not prevent remarriage and will not therefore involve any serious consequences for the infant widows.

It being so, one would expect that the good sense of people would naturally and inevitably lead them to postpone marriages to the latest age possible. There is no doubt that late marriages do now occur without much social opprobrium and that owing to a combination of causes they will increasingly occur in the future; but earlier marriages have not fallen into desuetude and show no sign of doing so, because the census shows more than 1,00,000 widows of all ages under 12. It is in my opinion therefore justifiable that 12 should be fixed as the age below which marriage should be prohibited.

* Translated at the end.

I fix no higher age than 12 because it is accepted by representative orthodox opinion in the last resort and will not rouse that degree of opposition which will make social legislation ineffective and undesirable and also because it is and has always been 12 in England and Scotland and no higher age is necessary in India.

The law may enforce the prohibition in three ways:—

- (1) by declaring the marriage invalid, or
- (2) by making the marriage voidable at the instance of either party on coming of marriageable age within a short time thereafter to be fixed, or
- (3) by visiting those who take part in the celebration of the marriage with penalties but leaving the validity of the marriage unquestionable as under the existing law.

The first alternative may be left out of account as too far reaching in its consequences and therefore unthinkable. The second is the one which in my opinion will be immediately effective in preventing the marriages altogether. The third may prevent many marriages but will not prevent all. I personally do not like the differential consequences to the poor and to the rich which it involves, nor the puffishment of persons for doing an act which the law recognises to be of such importance to the parties that it ought not to be declared to be of no legal effect even at the option of the parties concerned. If the second alternative is negatived in difference to the cry of sacramental nature of marriage and the incalculable injury to at least one party by its dissolution, the third alternative will be the only one available. The second alternative is the one adopted by the English law and was the one suggested by M. G. Ranade (*see Kellocks Biography of Ranade*, pages 84-85). And I have no doubt that it will immediately do away with marriages below 12.

In the course of the evidence before the committee, there have been suggestions that marriages should be prohibited in the case of boys below 21 and in the case of girls below 18. That consummation after these ages is productive of good results and that it is desirable that people should adopt that view in the regulation of their lives, may be presented to people for acceptance, but it cannot be enacted as law. If restraint comes from within and by self-choice there is everything to be said for it and the postponement will indubitably produce good results. Where the restraint is imposed from without and is accepted only in a rebellious spirit, it will be fraught with the gravest and most injurious results. When one comes across writers who praise marriage and maternity after a woman has reached full growth which they fix at somewhere near 24 and across other writers who recommend very much earlier marriages, the real reconciliation, it seems to me, is that postponement is desirable and worth striving for and where it is not possible for the individual there is no use pressing a counsel of perfection against the imperious and irresistible demands of nature. That there is wide divergence of opinion even among western writers is clear from the passages cited by Mr. Justice Ramesam in his evidence given before the Committee. One may add a passage of Upton Sinclair bearing on the age of consummation and even maternity:

“As to the age at which it (maternity) is physically advisable, that is a question to be settled by physicians and physiologists. I myself had the idea that the proper age would be when the woman had attained her full stature; but my friend Dr. William J. Robinson, lends me some statistics from the John Hopkins Hospital Bulletin, which startle me. This publication for January 1922 gives the results in 500 child births, in which the mother's age was from 12 to 16 years inclusive. It appears that pregnancy and labour at these ages are no more dangerous than in older women; but on the other hand, the duration of the labour is actually shorter, and the size of the children is not inferior. These facts are so contrary to the general impression that I content myself with calling attention to them,

and leave the commenting to be done by feminists and others who oppose themselves to the idea of early marriage."

If with these expert opinions we take the revelations of Judge Lindsay that many girls in America have sexual experiences even at 14 it will be very difficult to make out a case for legislative prohibition of consummation up to so late an age as was suggested by some of the witnesses. It seems to me that they have not sufficiently distinguished between what should be commended to the individual as a matter of personal choice and what should be established as a legislative control of private conduct. In any case orthodox Indian opinion is not easily dismissed with contempt when there is such difference of opinion among experts.

My conclusions may be expressed in the abstract thus:—

Legislative prohibition must stop at the point enforced by considerations of positive injury to public health and even that point may have to be reached by stages if opposition to an immediate and sudden change is apprehended. The highest point necessary to reach for the production of best results must be worked up to by propaganda and education of public opinion and not by legislation. The progress from the lower imperative, to the higher desirable, limit, must come from within and not be imposed from without—that is, must be the result of strenuous propaganda and change of public opinion.

The considerations thus stated in the abstract lead me to the following concrete proposals:—

- (1) The minimum age for marriage should be fixed at 12, as it is in England and Scotland.
- (2) The age of consummation may now be fixed at 14 and in time may be raised to 16.
- (3) The Age of Consent outside marriage should be fixed at 16.
- (4) The enforcement of the first proposal should be by making the marriage voidable at the option of either party within six months or one year of attaining the marriageable age, or, if this is considered open to serious objection, by imposing a penalty on the fathers or guardians of the bride and bridegroom who bring about the marriage.

Translation of the Sanskrit passage.

She who has been defiled by the mere touch of the hand (by the ceremony of marriage) obtains on the death of the husband, again a sacrament with a second husband. She is a maiden though nominally "marrying again" and is along with her children fit to make offerings to the gods and to the manes of the ancestors she is blameless in her issue and in her issues' marriage alliances.

Written Statement, dated the 23rd November 1928, of Mr. S. RAGHAVACHARYA, 62, Govindappanalk Street, Madras.

I happened to see a note in the Madras Dailies to the effect that your Committee would care to record and use such statements as we would like to file, though it may be inconvenient for you to call all of us for oral evidence.

I belong to the Acharya Caste, which is for generations officiating as priests and conducting the marriage ceremonies of thousands of homes. I therefore think it is my duty to place before the Committee the fact that *Garbhadana* ought to be performed within 16 days after the first menses. Usage is perpetuating this still in hundreds of homes. *Shastras* ordain it as compulsory. Of course in the case of Roghis (diseased persons) *Dharma Shastras* leave a reasonable margin on strictly medical grounds. This ex-

ception need not and ought not to affect the sacramental enjoinderment of *Garbhadhana* required to be performed within 18 days after the first menses.

The Author and the Sympathisers of the Bill seem to be labouring under the impression that such early consummations are untoward to the physical health of the parents and their progeny. But I hold that, though some doctors who base their pro-bill conclusions upon a limited number of pathological cases, early post-puberty consummation is not at all the cause of the evils under consideration. Civilised habits of food and drink, fashions and senseward agitations, too frequent sexual intercourse, which is quite so common under modern civilised conditions, no matter people get married early or late, these and many more are the real causes of our present fate.

I am aware that sometimes people quote, when Dharma-Shastras fail them, that Shusruta at least recommends late *Garbhadhana* for healthy progeny. But they fail to understand two points. (a) Shusruta deals with the medical points of view. And its conclusions apply to persons not under normal health. Hence as we stated above, there need be no hitch between this science (medical) and the Dharma Shastras which contain rules for the normal conditions of man, with values both temporal and spiritual. (b) Secondly, Dharma Shastras consider things from the points of view of moral, intellectual and spiritual prosperity of the society, not simply physical well-being, which of course is not sacrificed in any way. Hence rightly the orthodox people consider that Dharma Shastras can even prevail in matters like this, whenever any seeming contradiction occurs.

I therefore appeal to this Committee to view the situation dispassionately, care the cause of Truth and Justice and guard the ancient traditions of our land.

Written Statement, dated the 25th December 1928, of Mrs. Margaret E. COUSINS, *Exc-Secretary* of the Women's Indian Association.

I take the liberty of sending the enclosed despite its lateness as I should like my views to be among those filed on the subject. I have worked much to bring about satisfactory legislation to prevent early marriages and child-motherhood which as they exist in India are a blot on world-civilisation. I pray that the investigations of your Committee will bring about a better era for the Brahmin girls. The girls of other castes do not suffer so much, but the millions of Brahmin girls must be saved from the inhumanity of a degenerate and degenerating religious custom not worthy the name of religious as it is opposed to the laws of Nature.

Replies.

1. There is widespread dissatisfaction with the state of Indian law as regards all matters connected with marriage. This has been shown by the large numbers of meetings held by the Women's Indian Associations, and other women's Societies, during the past five years particularly.

2. I know of no circumstance which would justify retaining the present law of the Age of Consent.

In order to improve the race, to give education, free girlhood, good health to boys and girls, and to raise the whole tone of the country as regards sexual relationships, the law should be such that no man should be allowed to have sexual contact with a girl before she is 16 years of age.

3. In Madras Presidency. Yes. The raising of the Age of Consent is not the fundamental reform in law that is needed, as it is almost impossible to get evidence which will convict a husband. The act is too intimate and private and parents are too much afraid of son-in-laws to give evidence against them. Prevention of the possibility of such infringement of the law is better than punishment.

4. The whole publicity given these days to the subject of the disgrace of early motherhood is stimulating public opinion towards postponing marriage.

I believe that India as a whole would heave a sigh of relief if the Legislative Assembly passed a law prohibiting the marriage of girls before 18 and of boys before 21. It would be much easier to make this reform *en bloc* than by individuals as a personal reform.

5. Between 14 and 16 exactly the same as in Great Britain.

6. Not at all common. In my 13 years in India I have known of only one case before 13.

7. It is entirely due to religious injunctions amongst the Brahmmins, and amongst them only, as far as my experience goes.

8—9. Certainly the attainment of puberty is no justification for forcing motherhood on a girl. Two years at least should be left in which the girl's body and mind should be left free to strengthen and mature. This is the custom, and the hygienic and humane custom in every country but India.

10. Not before 16. I personally prefer 18.

11. I have. Age just after 13. In several cases death, in many consumption, womb trouble, hysteria, and in all cases debility.

12. Yes, most certainly, but chiefly amongst the Brahmmins.

13—20. I do not think that any satisfactory safeguards can be invented against abuse of the marital relation if girls are not safeguarded from marriage itself until 16. Every other attempt will be merely patchwork and meet with failure and disappointment.

21. I rely on the power of legislation to remove the evils of child-marriage and extra-marital excesses just as legislation removed the horrors of *sati*, and I believe that education and social propaganda have already sufficiently made ready the minds of the Indian people for social reform legislation to be a success, and to become the pivot of a purified and re-vitalised India.

